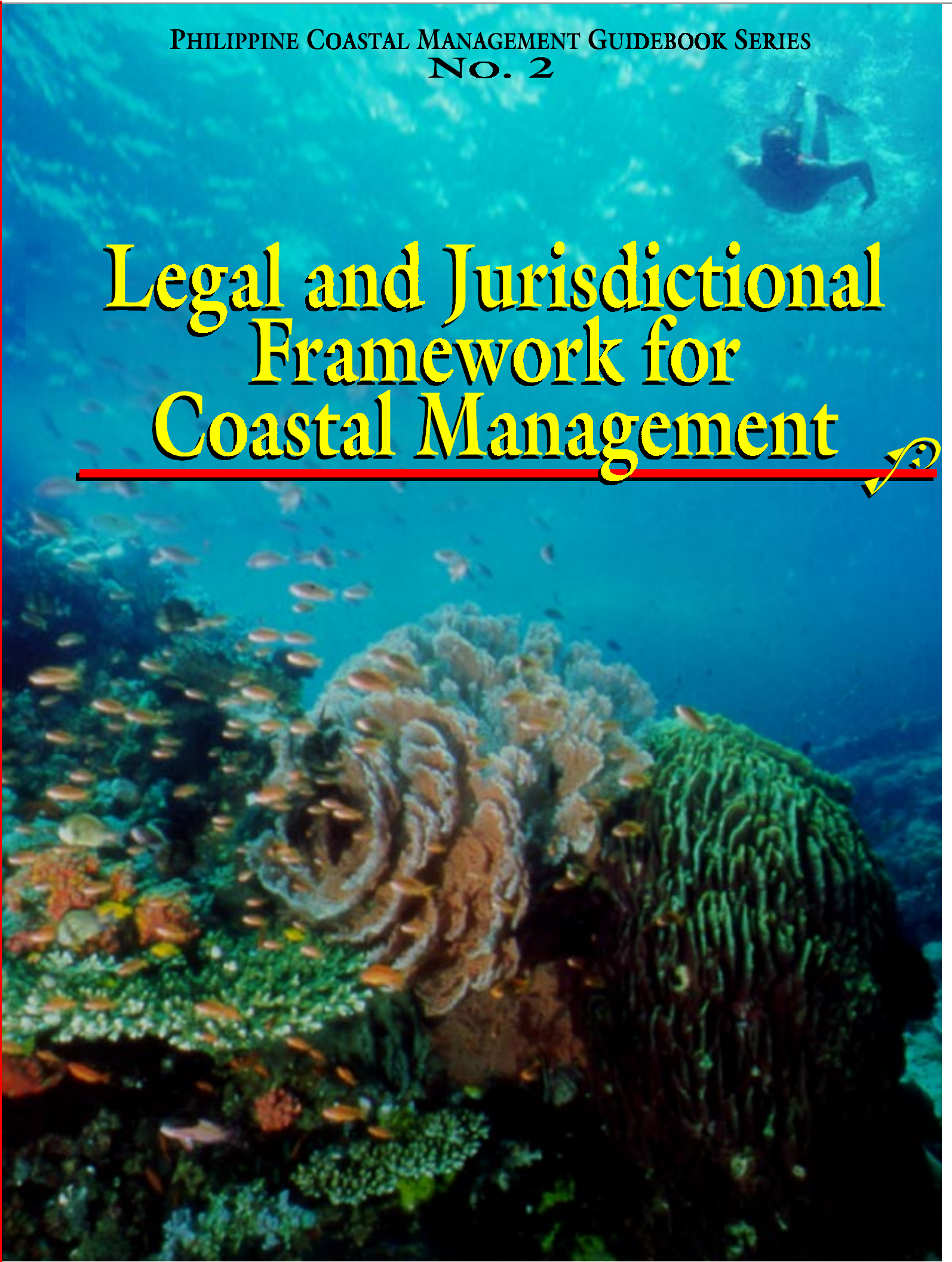


PHILIPPINE COASTAL MANAGEMENT GUIDEBOOK SERIES  
No. 2

# Legal and Jurisdictional Framework for Coastal Management

---



**PHILIPPINE COASTAL MANAGEMENT GUIDEBOOK SERIES**

**No. 2:**

# **LEGAL AND JURISDICTIONAL FRAMEWORK FOR COASTAL MANAGEMENT**

*By*

**Department of Environment and Natural Resources**

**Bureau of Fisheries and Aquatic Resources**

*of the*

**Department of Agriculture**

**Department of the Interior and Local Government**

*and*

**Coastal Resource Management Project**

*of the*

**Department of Environment and Natural Resources**

*supported by the*

**United States Agency for International Development**

**Philippines**

PHILIPPINE COASTAL MANAGEMENT GUIDEBOOK SERIES

No. 2

## **Legal and Jurisdictional Framework for Coastal Management**

by

Department of Environment and Natural Resources (DENR)

Bureau of Fisheries and Aquatic Resources of the Department of Agriculture (DA-BFAR)

Department of the Interior and Local Government (DILG)

and

Coastal Resource Management Project (CRMP)

2001

Printed in Cebu City, Philippines

*Citation:*

Department of Environment and Natural Resources, Bureau of Fisheries and Aquatic Resources of the Department of Agriculture, and Department of the Interior and Local Government. 2001. *Philippine Coastal Management Guidebook No. 2: Legal and Jurisdictional Framework for Coastal Management*. Coastal Resource Management Project of the Department of Environment and Natural Resources. Cebu City, Philippines, 170 p.

This publication was made possible through support provided by the United States Agency for International Development (USAID) under the terms and conditions of Contract No. AID-492-0444-C-00-6028-00. The opinions expressed herein are those of the authors and do not necessarily reflect the views of the USAID. This publication may be reproduced or quoted in other publications as long as proper reference is made to the source.

Photo credits: *Front cover:* Lynn Funkhouser and Mike Ross. *Back cover:* Alan White

CRMP Document No. 02-CRM/2001

ISBN 971-92289-1-1

# *Contents*

---

<b>List of tables</b>	<b>v</b>
<b>List of figures</b>	<b>vi</b>
<b>List of acronyms and abbreviations</b>	<b>vii</b>
<b>Acknowledgments</b>	<b>ix</b>
<b>Foreword</b>	<b>xi</b>
<b>Preface and orientation to this guidebook series</b>	<b>xii</b>
<b>Chapter 1. Purpose and introduction</b>	<b>1</b>
<b>Chapter 2. Evolution of legislation for coastal management</b>	<b>5</b>
History of policy initiatives and legislation in coastal management	5
<b>Chapter 3. Legal and policy framework for coastal management</b>	<b>11</b>
The hierarchy of laws governing coastal management	11
The Local Government Code of 1991	13
The Philippine Fisheries Code of 1998	16
The National Integrated Protected Areas System Act	21
The Agriculture and Fisheries Modernization Act	22
Other laws relevant to coastal management	23
International agreements	25
<b>Chapter 4. Local jurisdictional framework for coastal management</b>	<b>29</b>
Blending national and local mandates for coastal management	29
Coastal management as a basic service of local government	46
LGU partners in coastal management	46
Emerging institutional arrangements for coastal management	55
<b>Chapter 5. Coastal management problem networks</b>	<b>57</b>
Open access	57
Habitat destruction	63
Lack of enforcement	67
Resource enhancement and conservation	70
Development activities	72

<b>Chapter 6. Commonly asked questions answered</b>	<b>75</b>
Foreshore areas	76
Capture fisheries and fishery law enforcement	82
Mangrove forests and fishponds	109
Marine protected areas	116
Other environmental issues, including pollution and habitat management	125
Mining and quarrying	133
Institutional issues	134
Legislation, taxes, and penal provisions	135
<b>Annexes</b>	
A. Glossary	141
B. CRM-related issuances	149
C. Index of selected subjects	162
D. List of prohibited/regulated aquatic species in the Philippines	165
<b>References</b>	<b>169</b>

## *List of tables*

---

Table 1	Types of issuances in hierarchy of importance	11
Table 2	Philippine Constitution: Provisions related to the environment, subsistence fishermen, and people's participation in governance	12
Table 3	Local Government Code (RA 7160): Provisions related to political autonomy and decentralization	14
Table 4	Local Government Code (RA 7160): Provisions pertaining to resource generation and mobilization	15
Table 5	Fisheries Code (RA 8550): Provisions pertaining to local governance	17
Table 6	NIPAS Act (RA 7586) and its IRR (DAO 25, s1992): Provisions related to local governance	22
Table 7	Some international environmental treaties ratified by the Philippines and global programs of action	26
Table 8	Highlights of the Food and Agriculture Organization Code of Conduct for Responsible Fisheries	27
Table 9	Complementarity of LGC provisions and existing laws on CRM	30
Table 10	Responsibilities of LGUs in the management of coastal resources	39
Table 11	Benchmarks in the coastal management cycle	47
Table 12	Major legislation that influenced the DENR's role in coastal area management	49
Table 13	Key legislation that influenced BFAR's role in fisheries management in the last 30 years	51
Table 14	Differences between pre-RA 8550 laws and RA 8550 on the prescribed penalties for illegal fishing activities	90
Table 15	Differences between marine protected areas proclaimed under NIPAS and fish reserves, refuges, and sanctuaries established through city or municipal ordinance	117
Table 16	List of protected seascapes	119

## *List of figures*

---

Figure 1	Illegal activities commonplace in the Philippine coastal environment	1
Figure 2	History of the laws and policies on coastal resources in the Philippines	6
Figure 3	Coastal management: A basic service of local government	47
Figure 4	Emerging institutional arrangements and responsibilities for coastal management in the Philippines.	56
Figure 5	CRM problem network no. 1: Open access	59
Figure 6	CRM problem network no. 1: Open access - Licenses and permits	60
Figure 7	CRM problem network no. 1: Open access - Taxation	61
Figure 8	CRM problem network no. 1: Open access - Lease	61
Figure 9	CRM problem network no. 1: Open access - Restrictions	62
Figure 10	CRM problem network no. 1: Open access - Property rights	63
Figure 11	CRM problem network no. 2: Habitat destruction	65
Figure 12	CRM problem network no. 2: Habitat destruction - Direct	66
Figure 13	CRM problem network no. 2: Habitat destruction - Indirect	67
Figure 14	CRM problem network no. 3: Lack of enforcement	68
Figure 15	CRM problem network no. 3: Lack of enforcement - Apprehension	69
Figure 16	CRM problem network no. 3: Lack of enforcement - Prosecution and imposition of penalty	70
Figure 17	CRM problem network no. 4: Resource enhancement and conservation	71
Figure 18	CRM problem network no. 5: Development activities	73
Figure 19	A diagrammatic representation of the foreshore area and other features in the coastal zone	76
Figure 20	Two interpretations of the third line in municipal waters	84
Figure 21	Municipal waters for a coastal municipality with offshore islands delineated according to DAO 2001-17	84

## *List of acronyms and abbreviations*

---

AFMA	- Agriculture and Fisheries Modernization Act
AFMP	- Agriculture and Fisheries Modernization Plan
AO	- Administrative Order
Art.	- Article
BFAR	- Bureau of Fisheries and Aquatic Resources
CA	- Commonwealth Act
CBFM	- Community-based Forest Management
CBFMA	- Community-based Forest Management Agreement
CENRO	- Community Environment and Natural Resources Officer
CEP	- Coastal Environment Program
CFMA	- Community Forest Management Agreement
CITES	- Convention on the International Trade in Endangered Species of Wild Flora and Fauna
cm	- centimeter
CO	- community organization
CRM	- coastal resource management
CRMP	- Coastal Resource Management Project
DA	- Department of Agriculture
DAO	- Department Administrative Order
DENR	- Department of Environment and Natural Resources
DILG	- Department of the Interior and Local Government
DND	- Department of National Defense
DOTC	- Department of Transportation and Communication
ECA	- Environmentally Critical Area
ECC	- Environmental Compliance Certificate
ECP	- Environmentally Critical Project
EIA	- Environmental Impact Assessment
EIS	- Environmental Impact Statement
EMB	- Environmental Management Bureau
EO	- Executive Order
FAO	- Fisheries Administrative Order
FARMC	- Fisheries and Aquatic Resources Management Council
FLA	- Fishpond Lease Agreement
FSP	- Fisheries Sector Program
GT	- gross ton
ha	- hectare



ICM	- integrated coastal management
IRA	- internal revenue allocation
IRR	- Implementing Rules and Regulations
km	- kilometer
LGC	- Local Government Code
LGU	- local government unit
LOI	- Letter of Instruction
m	- meter
MARINA	- Maritime Industry Authority
M/CFARMC	- Municipal/City Fisheries and Aquatic Resources Management Council
MGB	- Mines and Geosciences Bureau
MNR	- Ministry of Natural Resources
MOA	- Memorandum of Agreement
MSY	- maximum sustainable yield
NAMRIA	- National Mapping and Resources Information Authority
NGA	- national government agency
NGO	- nongovernment organization
NIPAS	- National Integrated Protected Areas System
nm	- nautical mile
PAMB	- Protected Area Management Board
PAB	- Pollution Adjudication Board
PAWB	- Protected Areas and Wildlife Bureau
PCAMRD	- Philippine Council for Aquatic and Marine Research and Development
PCG	- Philippine Coast Guard
PCSD	- Philippine Council for Sustainable Development
PD	- Presidential Decree
PEA	- Public Estates Authority
PENRO	- Provincial Environment and Natural Resources Officer
PN	- Philippine Navy
PNP	- Philippine National Police
PNP-MARIG	- Philippine National Police Maritime Group
PO	- people's organization
PPA	- Philippine Ports Authority
PTA	- Philippine Tourism Authority
RA	- Republic Act
RED	- Regional Executive Director
SAFDZ	- Strategic Agricultural and Fisheries Development Zone
Sec.	- Section
t	- ton
UNCED	- United Nations Conference on Environment and Development
UNCLOS	- United Nations Convention on the Law of the Sea
UNEP	- United Nations Environment Programme

# *Acknowledgments*

---

This book represents the composite work of many individuals and organizations. The authors are:

Annabelle Cruz-Trinidad, Policy Advisor, Coastal Resource Management Project  
 Atty. Mikhail L. Maxino, Dean, College of Law, Silliman University  
 Atty. Jay L. Batongbacal, Executive Director, Philippine Center for Marine Affairs, Inc.  
 Leo R. Pura, Policy Researcher, Coastal Resource Management Project  
 Catherine A. Courtney, Ph.D., Chief of Party, Coastal Resource Management Project

The following Departments have endorsed, reviewed, and made contributions to this book:

Department of Environment and Natural Resources  
 Department of Agriculture  
 Department of the Interior and Local Government

The special technical editors include:

Atty. Antonio Oposa, Counsellor-at-Environmental Law  
 Mary Gleason, Ph.D., Tetra Tech Environmental Management Inc.  
 Alan T. White, Ph.D., Deputy Chief of Party, Coastal Resource Management Project

The reviewers from the workshops include:

Emy Aguinaldo, Department of Environment and Natural Resources, Office of the Undersecretary for Programs and Technical Services  
 Mayor Doris Almeda, Polillo, Quezon  
 Bonifacio Apura, ARED for Technical Services, Department of Environment and Natural Resources XI  
 Zoraida Aquende, Division Chief, Department of Interior and Local Government, Bureau of Local Government Development  
 Cdr. Bernie Arcamo, Philippine Coast Guard, Davao City  
 Clarence Baguilat, RED, Department of Environment and Natural Resources  
 Flor Benitez, Department of Environment and Natural Resources, Land Management Bureau  
 Ruby Buen, Department of Environment and Natural Resources, Policy  
 Connie Crisostomo, Department of Environment and Natural Resources, Office of the Undersecretary for Programs and Technical Services  
 Atty. Gil Cruz, League of Cities of the Philippines  
 Monina Cunanan, Department of Environment and Natural Resources, Policy  
 Rodrigo Fuentes, Policy Advisor, Coastal Resource Management Project

Atty. Jocam Joseph C. Jocson, Legal Officer, Island Garden City of Samal LGU  
Supt. Celso S. Landas, PNP, Maritime, Davao City  
Elmer Mercado, Coastal Resource Management Project  
Teresita Mistal, Director, Department of Interior and Local Government, Bureau of Local Government Development  
Alex Pascua, Department of Environment and Natural Resources, Land Management Bureau  
Hardinado V. Patnugot, ARED for Administrative Services, Department of Environment and Natural Resources  
Premolito Plaza, Department of the Interior and Local Government, Legal  
Judge Jesus Quitain, RTC, Davao City  
Benjamin Resillo, OIC PENRO, PENR, Davao del Sur  
Virgilio Santos, Bureau of Fisheries and Aquatic Resources, Legal  
Atty. Suzette Suarez, Department of Environment and Natural Resources, Legal  
Edward Templonuevo, Department of the Interior and Local Government, Bureau of Local Government Development  
Atty. Annie Vitug, Bureau of Fisheries and Aquatic Resources, Legal

This book has been supported by the Coastal Resource Management Project of the Department of Environment and Natural Resources with support from the United States Agency for International Development. Copy editing was done by Leticia Dizon and final production was assisted by Ysolde Collantes, Leslie Tinapay, Lume Inamac, and Dexter Allen Besa.

## *Foreword*

---

On behalf of our departments, we fully endorse the *Philippine Coastal Management Guidebook Series* as an essential information guide to assist in improving the status of Philippine coastal resources and their management. This series of guidebooks strengthens our capacity to enhance coastal management efforts in the country. It clearly identifies roles and responsibilities for all concerned departments, agencies, and organizations in this collaborative coastal environmental management effort.

Let us enjoin all users of these guidebooks to collectively work for sustainable management of our coastal resources for the economic and environmental well-being of our country!



Department of  
Environment and  
Natural Resources



Department of  
Agriculture - Bureau of  
Fisheries and Aquatic  
Resources



Department of the  
Interior and Local  
Government

## ***Preface and orientation to this guidebook series***

---

This book is the second in a series of eight guidebooks to coastal management in the Philippines. The titles and basic content of these eight books are shown next page. The series covers major topics concerning all aspects of coastal management in the Philippines and follows a theme of local government perspective, while highlighting the role of the various stakeholders and other factors that affect coastal environments.

This second book, *Legal and Jurisdictional Framework for Coastal Management*, presents the national laws and policies governing coastal management. The jurisdiction of national government agencies, local government units, assisting organizations, and other sectors in coastal management are described in terms of primary mandates and supporting roles. Enacting local legislation in accordance with national policies and laws is a fundamental aspect of the coastal management process and is a basic service of local government. The coastal management process promoted through these guidebooks is explained and summarized and the 8 guidebooks and other sources of information linked to different stages in the process.

Coastal management is the theme of these books because of the urgent need to manage and protect the coastal resources of the Philippines. These resources are known to be incredibly valuable and important to the country's security. If the management problems are not addressed soon using integrated approaches, the environmental and food security of the country will be further threatened. These guidebooks lay out a process to address deteriorating coastal environments, loss of resources, increasing poverty, and to reverse current trends. They are holistic in approach while offering many specific solutions that are easy to implement. Read, comprehend, and make use of these guidebooks!

### Philippine Coastal Management Guidebook Series—Titles and Contents

<b>1. Coastal Management: Orientation and Overview</b>	<ul style="list-style-type: none"> <li>♦ Definitions and trends in coastal management</li> <li>♦ Issues, resources, and impacts of concern in the Philippines</li> <li>♦ Introduction to the coastal management process in the Philippines</li> <li>♦ Guidebook series and how to use it</li> </ul>
<b>2. Legal and Jurisdictional Framework for Coastal Management</b>	<ul style="list-style-type: none"> <li>♦ All laws pertaining to coastal management</li> <li>♦ All jurisdictions affecting coastal areas and resources</li> <li>♦ The roles and mandates of government agencies</li> </ul>
<b>3. Coastal Resource Management Planning</b>	<ul style="list-style-type: none"> <li>♦ Coastal management planning process from local government perspective</li> <li>♦ Key steps and procedures in the process</li> <li>♦ How to develop the coastal management plan</li> </ul>
<b>4. Involving Communities in Coastal Management</b>	<ul style="list-style-type: none"> <li>♦ Importance of involving coastal communities</li> <li>♦ Community organization process and participatory approaches</li> <li>♦ Information, education, and communication techniques</li> <li>♦ Sustainability of community-based coastal management</li> </ul>
<b>5. Managing Coastal Habitats and Marine Protected Areas</b>	<ul style="list-style-type: none"> <li>♦ The coastal marine ecosystem and how it functions</li> <li>♦ Management considerations of critical coastal habitats</li> <li>♦ Creating and managing marine protected areas</li> </ul>
<b>6. Managing Municipal Fisheries</b>	<ul style="list-style-type: none"> <li>♦ Municipal waters and legal jurisdiction for fisheries management</li> <li>♦ Planning for fisheries management</li> <li>♦ Management interventions and how to apply them</li> </ul>
<b>7. Managing Impacts of Development in the Coastal Zone</b>	<ul style="list-style-type: none"> <li>♦ Roles of planning and environmental impact assessment</li> <li>♦ Environmental guidelines for coastal development</li> <li>♦ Government role and mandate to prevent development impacts</li> <li>♦ Managing coastal and marine pollution</li> </ul>
<b>8. Coastal Law Enforcement</b>	<ul style="list-style-type: none"> <li>♦ Major issues in effective law enforcement in coastal management</li> <li>♦ Roles and responsibilities of major law enforcement groups</li> <li>♦ Initiatives to improve fishery law enforcement</li> </ul>



# chapter 1

## ***Purpose and introduction***

---

Coastal management is an increasingly important issue for the Philippines. In recent years, more and more Filipinos have come to realize the tremendous impact that coastal resources, such as finfish, shellfish, and their nurturing habitats including coral reefs, seagrass beds, and mangroves, have on the country's economic development and well being. Indeed, the contribution of our coastal resources to food security is significant and needs to be factored prominently into food security programs at both the national and local levels. Coastal resources, increasingly under threat from overexploitation and destruction (see Figure 1), need to be managed for future generations to come.

Coastal management provides the tools for slowing and reversing the negative impacts of uncontrolled use of these resources. Coastal management also provides the essential processes for integration of all sectoral, spatial, temporal, policy, and institutional components necessary to achieve the goal of sustainable development (Sorensen 1997). The national policy and legal framework for coastal management consists of national laws, administrative issuances, and international treaties and agreements that define or guide management responsibilities for the use of coastal resources.



*Figure 1. Illegal activities common in the Philippine coastal environment.*



However, the implementation of these policies and laws remains weak due to a variety of factors. Among them is that legal and jurisdictional conflicts arise from the plethora of legislation and administrative issuances affecting different types of economic activities in the coastal area. Conflicting interpretations of these laws and poor dissemination of information contribute to difficulties in implementation. Another factor is the multiplicity of institutions at the national and local levels with mandates in coastal management. Finally, the complex issues, wide geographic coverage, breadth of activities, and multiple stakeholders that must be addressed by coastal management programs present enormous challenges to implementation of sound and effective coastal management.

Legal and jurisdictional issues in coastal resource management (CRM) have been further complicated by the devolution of many responsibilities to the local governments. While devolution raises hope for more direct and responsive management regimes, it also complicates the lines of authority over resources and may result in fragmented management initiatives as these resources do not necessarily conform to geopolitical boundaries. At the same time, devolution of responsibility for coastal management keeps the solutions for coastal resource problems close to home and hence is more sustainable. With the passage of the Local Government Code (LGC) of 1991 and the Fisheries Code of 1998, the legal and jurisdictional framework for coastal resources has shifted focus, away from what was predominantly nationally-driven programs for fisheries development with the objective of increasing production of capture fisheries and aquaculture, to local implementation focused on coastal management, rehabilitation, and restoration.

The *Legal and Jurisdictional Guidebook for Coastal Resource Management in the Philippines* (DENR *et al.* 1997) was a first step in improving local implementation of coastal management by clarifying the national legal and jurisdictional framework for coastal management and the responsibilities of local government units (LGUs) in relation to national government agencies (NGAs). Since the publication of its first edition, several significant coastal management-related laws were passed in the Philippine Congress including the Agriculture and Fisheries Modernization Act (AFMA) of 1997 (Republic Act [RA] 8435) and the Fisheries Code of 1998 (RA 8550). This second edition of the guidebook aims to:

- ◆ Update the first guidebook by the inclusion, review, and analysis of new national laws and issuances;
- ◆ Provide a comprehensive base of information on the legal basis for coastal management;
- ◆ Determine and clarify how existing laws and policies can be used to address coastal management issues;
- ◆ Clarify responsibilities of LGUs and NGAs in coastal management;
- ◆ Provide information on the national legal and jurisdictional framework for coastal management, a prerequisite to formulating a plan or a set of guidelines for local coastal management initiatives; and
- ◆ Respond to commonly asked questions about policies and laws supporting coastal management.

The target readers of this guidebook are primarily LGU officials and their staff, NGAs, and their functionaries at the regional and local level, nongovernment organizations (NGOs) and people's organizations (POs) working on specific aspects of CRM, academe, and an all-encompassing category called "CRM practitioners."

This updated version of the guidebook maintains much of the format, style, and content of the first version with some revisions in organization. Issuances which have been invalidated, especially those which were repealed or amended by the Fisheries Code, have been deleted. However, Chapter 4 contains an analysis of RA 8550, its similarities, differences, and enhancements over previous laws. In addition, the schedule of penalties and prohibitions in Chapter 6 provides a useful comparison with Presidential Decree (PD) 704, the Fisheries Decree of 1975.

Readers will also note that Chapter 3 through Chapter 6 make use of the same policy and legal framework, but they focus on different strategies for its use. Chapter 3 is a straightforward characterization of the legal framework, while Chapter 4 highlights the relationship between the national and local milieu for coastal management. Chapter 5 focuses on problems and suggested management interventions, and the legal basis for doing such. Lastly, Chapter 6 provides a logical conclusion by furnishing candid, but nonetheless, legal responses to commonly asked questions.

Annexes include an annotated list of all laws and orders relating to CRM. Readers of the first edition will note that the classification of laws and other legal issuances has been reorganized according to hierarchy from all constitutional provisions related to coastal management to other relevant laws and policies on coastal resources instead of the former thematic classification (sovereignty, allocation, regulation and deterrence, protection and constitutive). The glossary was expanded to include the terminology used in this book and terms defined by the new Fisheries Code. The subject index was improved for easy reference and a list of prohibited or regulated aquatic species in the Philippines was included.



# chapter 2

## ***Evolution of legislation for coastal management***

---

By definition, coastal management is a continuous and dynamic process that must evolve concurrently with local, national, and global trends in a variety of factors including governance, climate change, environment, socio-economy, technology, and resource use. Similarly, the policy and legislative agenda for coastal management in the Philippines has evolved in response to changing conditions and issues in coastal areas. This chapter provides a brief history of these changes as a backdrop to understanding the current legal and jurisdictional framework for coastal management in the Philippines.

### **HISTORY OF POLICY INITIATIVES AND LEGISLATION IN COASTAL MANAGEMENT**

The history of policy initiatives and legislation related to the use of coastal resources in the Philippines spans over 70 years since the enactment of the first Fisheries Act in 1932. Coastal areas and resources in the Philippines were once managed under the assumption that there was limited demand for what were considered unlimited economically valuable fish and other items. Up until the 1960s, coastal resources, particularly fisheries, were largely overlooked as economic sectors. Although it was widely believed that there were abundant fishery and coastal resources, the commercial potential of these resources was not well known and the government did not fully promote their growth and development.

The 1960s to the mid-1970s were marked by a phase of robust expansion and development in fisheries and aquaculture (Figure 2). This was prompted by the Fisheries Decree of 1975, which promoted the optimal exploitation and use of fisheries. Commercial fishing activities expanded and soon equalled the catch of the municipal sector during this period. This period of rapid growth also embraced the aquaculture sector, mainly fishpens and fishponds, with the latter having resulted in the decimation of mangrove forests or what is known as “fishpondification.” This trend in mangrove conversion was not cushioned by the enactment of PD 705 or the Forestry Code which identified mangroves along shorelines as being needed for coastal protection.

The decade of unbridled development resulted in a plethora of environmental problems discussed in this guidebook and *Guidebook 1: Coastal Management Orientation and Overview*. This alarming trend of degradation spurred the formation of a Coastal Zone Management Task Force was created in 1979. Said Task Force proposed a law, Parliamentary Bill No. 3027, which sought to regulate the use of coastal areas for tourism, mining, human and industrial development,

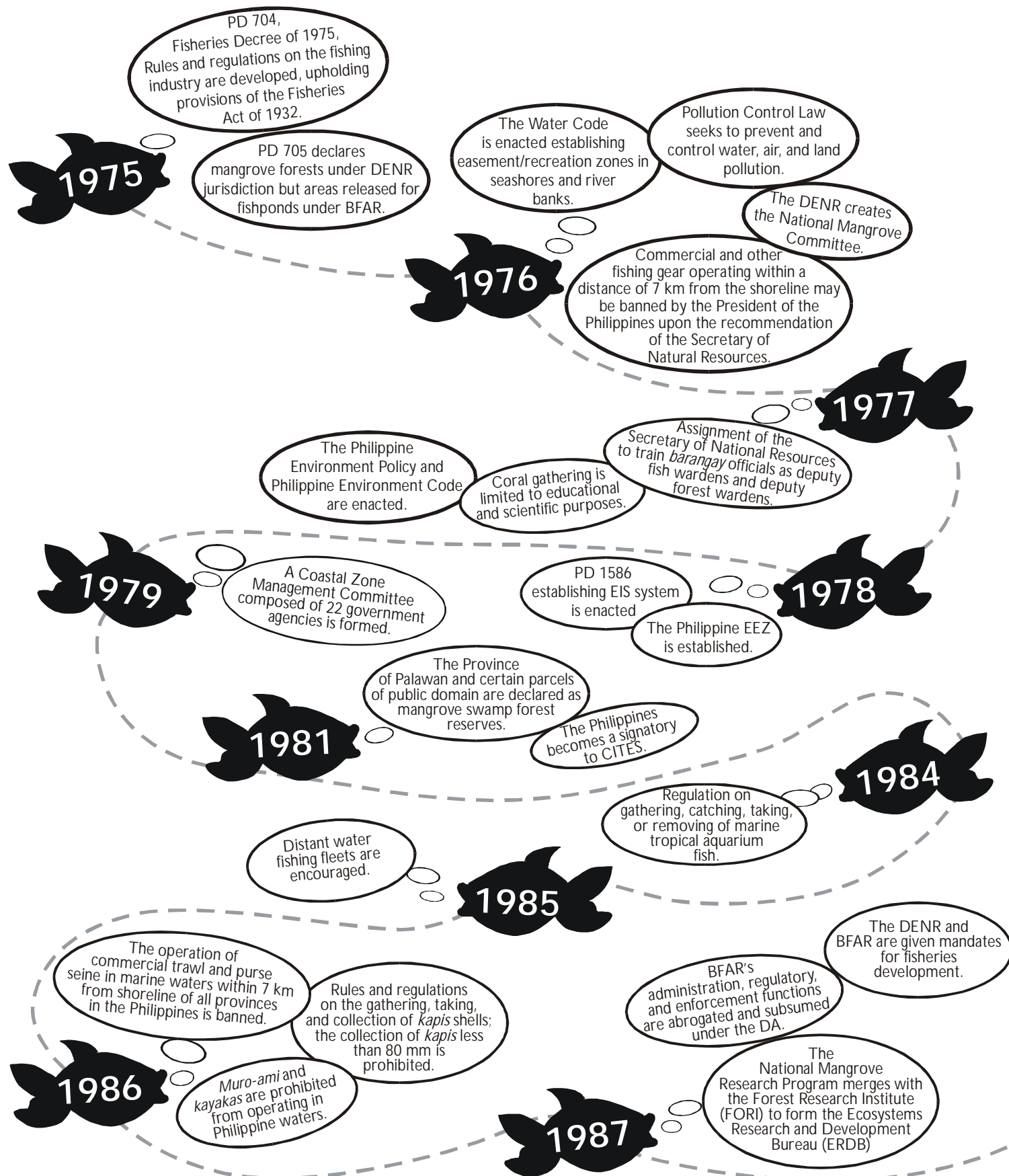
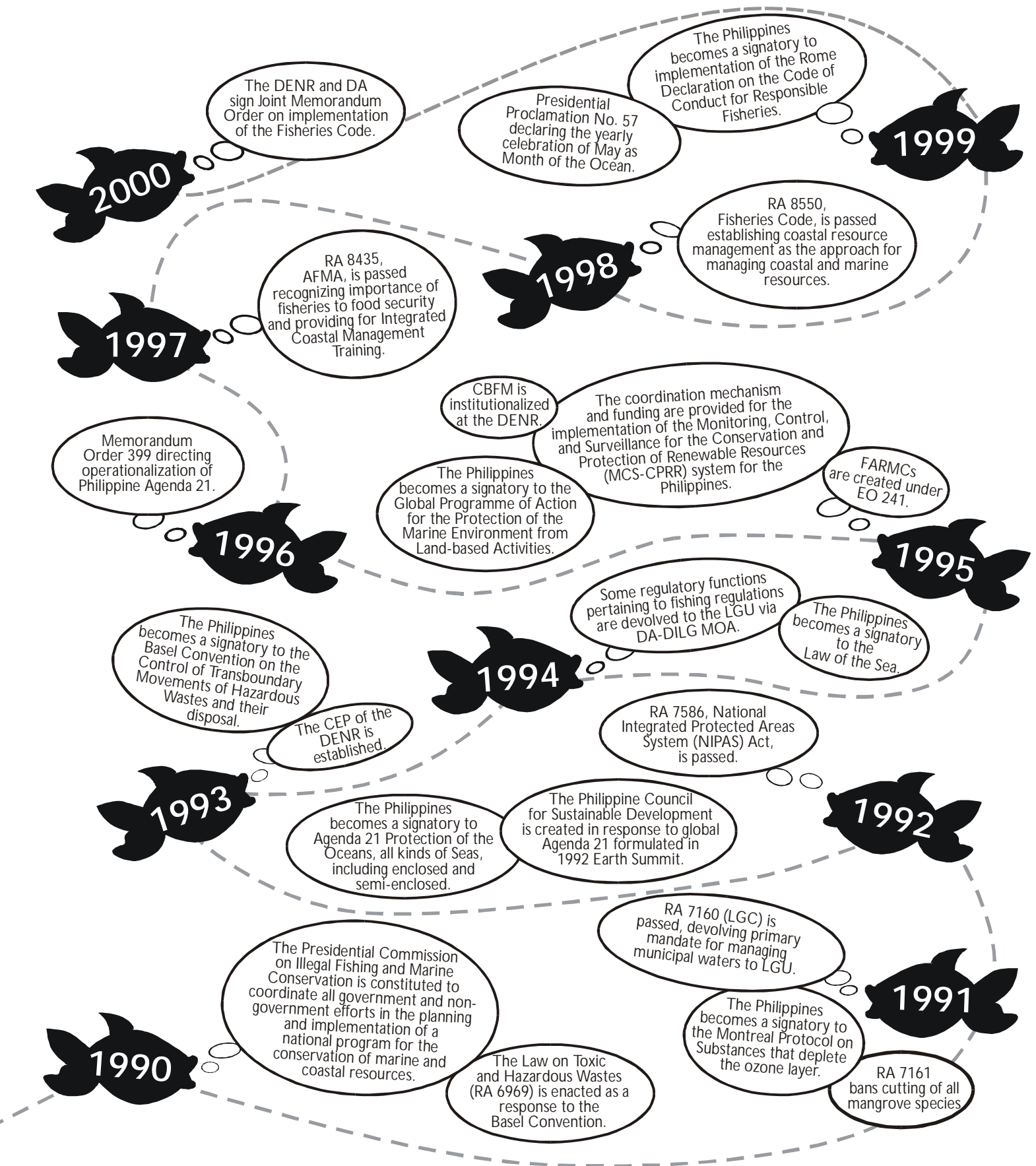


Figure 2. History of the laws and policies on coastal resources in the Philippines.



reclamation, and fisheries. Unfortunately, the proposal gained meager support and even the Task Force later lost its role to the National Environmental Protection Council.

The concern towards the broader field of environmental management is reflected in regulatory instruments adopted in the fisheries, forestry, and environmental sector which prospered further in the 1980s. Destructive gear were banned (e.g., *muro-ami* and *kayakas*) and operation of small commercial gear such as trawl and purse seine were prohibited in municipal waters (then extending to 7 km from the shoreline). Mangrove buffer zones were widened and mangrove timber licenses as well as cutting or debarking permits were stopped. In 1978, PD 1586, which establishes the Environmental Impact Assessment (EIA) System, was enacted thereby providing safeguards against unplanned development. Parallel to regulatory instruments were conservation and protection initiatives that included the establishment of fish sanctuaries and wilderness areas.

Towards the end of the decade, jurisdictional gaps and conflicts in the institutional structure for coastal management became more apparent. The administration, regulatory, and enforcement functions of the Bureau of Fisheries and Aquatic Resources (BFAR) were abrogated and subsumed as one of the food production divisions of the Department of Agriculture (DA). Meanwhile, both the BFAR and the Department of Environment and Natural Resources (DENR) were given mandates for fisheries development. At about the same time, interest in coastal management pervaded the ranks of NGOs and academic organizations, mainly through donor-assisted projects such as the Central Visayas Regional Project and the Fisheries Sector Program.

Worldwide, the concept of coastal management is about 30 years old, but it was given added emphasis and visibility at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, Brazil, in 1992. Among the outputs of that international conference were the Rio Declaration on Environment and Development and Agenda 21, which provided recommendations for nearly all major fields of environmental management and, in particular, recommended that nations with coastlines consider the adoption and implementation of integrated coastal management (ICM). President Fidel V. Ramos, through Memorandum Order No. 288 directed the formulation of a Philippine Agenda 21 and the creation of the Philippine Council for Sustainable Development (PCSD) in 1995 (PCSD 1997). This was followed in 1997 by Memorandum Order No. 399, calling for the implementation of the Philippine Agenda 21. International attention contributed further to the rapid expansion and growth of environmentalism in the Philippines during the late 1980s and early 1990s. A renewed concern for the environment began filtering through to government and nongovernment agencies, resulting in re-invigorated efforts for the development of environmental and resource management policies. An attempt at consolidating efforts in coastal management is reflected in the establishment of the Coastal Environment Program (CEP) of the DENR in 1993. This also hints at the DENR's move to broaden its vision of environmental management by looking beyond the forestry sector.

New regulatory mechanisms, access limitation, and conservation initiatives in coastal management were strengthened in the 1990s by two key legislative measures that had enormous impact on the feasibility of ICM. The first of these measures was the LGC of 1991 (RA 7160), which delegated mandates for environmental management from national government to local governments. The enactment of the LGC marked the beginning of devolution of ICM responsibilities to the local governments. Aside from the broad provisions of the LGC pertaining to maintenance of ecological integrity, some specific functions were devolved to LGUs, i.e., fishing regulations.

The second legislative measure was the passage of the Fisheries Code of 1998 (RA 8550). The new Fisheries Code incorporated ICM as one of its policy approaches. It also reinforced the primary mandate of LGUs in the management of nearshore municipal waters, and recognized the importance of active participation of local fisherfolk and coastal communities through the establishment of Municipal Fisheries and Aquatic Resources Management Councils (MFARMCs). The Fisheries Code also required the BFAR, as a line agency under the DA, to take the lead role in providing technical assistance and training to LGUs, and assisting organizations and coastal communities in establishing co-management regimes for coastal resources.





# chapter 3

## ***Legal and policy framework for coastal management***

---

National laws, administrative issuances, and international treaties and agreements establish the legal and policy framework for coastal management. This framework is largely comprised of the management systems provided in several major laws, namely the Local Government Code (LGC) of 1991, the Fisheries Code of 1998, The National Integrated and Protected Areas System (NIPAS) Act, and the Agriculture and Fisheries Modernization Act (AFMA). These legal instruments are implemented by means of a wide range of administrative orders, circulars, or memoranda issued by the President or the concerned executive department or agency.

### **THE HIERARCHY OF LAWS GOVERNING COASTAL MANAGEMENT**

The system of national and local governance in the Philippines creates a relatively complicated hierarchy of executive and legislative mandates distributed among the many different government agencies (Table 1). An understanding of the governance structure is a key step in appreciating the legal framework, which must be used for effective management of coastal resources.

*Table 1. Types of issuances in hierarchy of importance.*

- Constitution
- Republic Acts and International Treaties ratified by Philippine Congress
- Commonwealth Acts, Public Acts, *Batas Pambansa*
- Presidential Decrees issued during the Marcos era and Executive Orders of President Aquino
- Presidential Decrees and Executive Orders not included above; Letters of Instruction and Presidential Proclamations
- Administrative Orders
- Ordinances of local governments

At the apex of the hierarchy of laws is the 1987 Constitution, which gives general guidance for the management and use of all natural resources in the Philippines. This is embodied in the vital provisions on the general policies for protection and conservation of the environment, and the use of natural resources. Generally, all laws, rules, and other acts of government must be consistent with the provisions of the Constitution. In case of inconsistency, the provisions of the Constitution shall govern (Art. 7, The Civil Code of the Philippines) and the law, rule, or act shall be regarded as invalid. In the words of the Supreme Court, “an unconstitutional act is not a law; it confers no right and imposes no duties; it imposes no protection; it creates no office; it is in legal

contemplation inoperative, as though it has never been passed” (Municipality of Malabang vs. Benito, 27 SCRA 533).

Second in importance to the Constitution are all laws, called Republic Acts (RAs), passed by the Congress of the Philippines. Prior to the enactment of the 1987 Constitution, the President of the Philippines exercised legislative powers through the issuance of Presidential Decrees (PDs) and Executive Orders (EOs). These issuances also have the force and effect of a law unless amended or repealed by a Republic Act under the 1987 Constitution. Laws are intended to implement the general principles, mandates, policies, or programs embodied in the Constitution. A common norm in interpreting laws with related and/or conflicting provisions is to use either the most recent law or the special law, whichever is applicable.

**Table 2. Philippine Constitution: Provisions related to the environment, subsistence fishermen, and people's participation in governance.**

Art. II, Sec. 15 & 16: The State shall protect and promote the right to health of the people; the State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

Art. XII, Sec. 2: The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State shall protect the nation's marine wealth, . . . and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

Art. XIII, Sec. 7: The State shall protect the rights of subsistence fishermen, especially of local communities, to the preferential use of the communal marine and fishing resources, both inland and offshore. It shall provide support to such fishermen through appropriate technology and research. . . and other services.

Art. XIII: The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged.

Treaties entered into by the Philippines and ratified by Congress also have the force and effect of law, though their usefulness varies depending on the degree to which the country's obligations have been specified in the treaty. Some examples of these treaties are the Law of the Sea Convention, the Basel Convention, the London Convention, and the International Maritime Organization (IMO) Conventions. In ordinary cases, common citizens cannot invoke rights and duties set forth in a treaty since a treaty normally deals with rights and duties of States. However, the implementation of a treaty may require that the State enact relevant national laws, rules, or regulations which can then be the basis for the exercise by local citizens of legal rights, obligations, and duties. It is only through such issuances that treaties can be regarded as having the force and effect of law.

The Executive Branch of government is responsible for the implementation of all laws and treaties. Whenever necessary, this is done through the issuance of appropriate executive or department orders, memoranda, or circulars. Such rules and regulations are issued under EOs or

Administrative Orders (AOs) signed by the President of the Philippines, or in Department Administrative Orders (DAOs) issued by the various Secretaries in matters pertaining to their own Departments. Other government agencies may also issue implementing rules and regulations (IRR) in matters under their respective jurisdictions. Such executive issuances are legally considered as forming part of the law itself, for as long as they do not modify or contravene the provisions of the same law or the Constitution.

Under the LGC, the various LGUs have certain legislative powers, which are exercised through their respective local legislative councils, or *sanggunian*. The extent to which LGUs can validly legislate is specifically defined by the law; and since they derive their legislative powers from laws enacted by Congress, LGUs cannot promulgate ordinances which violate the Constitution, any existing laws passed by Congress, or executive issuances promulgated by the Executive Branch (*Primicias vs. Municipality of Urdaneta*, 93 SCRA 462; *Magtajas vs. Pryce Properties Corp.*, 234 SCRA 255). Generally, any ordinance promulgated by an LGU must comply with the following requirements in order to be valid:

- ◆ It must not contravene the Constitution or any law;
- ◆ It must not be unfair or oppressive;
- ◆ It must not be partial or discriminatory;
- ◆ It must be general and consistent with public policy; and
- ◆ It must not be unreasonable.

Judicial decisions which interpret the meaning of the law, or settle any controversy with respect to the application thereof, effectively become part of the law and thus have the same binding force, unless the law is amended or modified in such a manner as to require a new interpretation. Courts, however, cannot make decisions which in effect seek to enact new laws; they can only interpret or apply existing laws. Likewise, they cannot make interpretations unless in the course of a decision issued in an actual case filed before it. In the absence of a judicial interpretation, the interpretation of the law contained in executive issuances that implement them is considered as authoritative. Where two or more executive agencies have conflicting interpretations, an Opinion of the Secretary of Justice as to the correct legal interpretation may settle the issue among the contesting agencies. Ultimately, however, it is only the court which can make an interpretation which is valid and binding upon all.

### **THE LOCAL GOVERNMENT CODE OF 1991**

When it was enacted, the LGC of 1991 had a major impact on the system of governance in the Philippines. It represents the mode of implementation of the constitutionally-enshrined principles of government decentralization and democratization and creates a system of governance far more complex but much more decentralized than any other prior system used in the Philippines. Its influence on coastal management revolves around the key features of political autonomy and decentralization, and resource generation and mobilization (Tables 3 and 4).

**Table 3. Local Government Code (RA 7160): Provisions related to political autonomy and decentralization.**

<b>Sec. 3(f)</b>	"LGUs may group themselves, consolidate or coordinate their efforts, services, and resources for purposes commonly beneficial to them"
<b>Sec. 3 (i)</b>	"LGUs shall share with the national government the responsibility in the management and maintenance of ecological balance within their territorial jurisdiction subject to the provisions of this code and national policies"
<b>Sec. 26</b>	"duty of NGAs in the maintenance of ecological balance – it shall be the duty of every national agency or government-owned or controlled corporation authorizing or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of cropland, rangeland, or forest cover, and extinction of animal or plant species, to consult with the LGUs, NGOs, and other sectors concerned and explain the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof"
<b>Sec. 27</b>	"prior consultations required – no project or program shall be implemented by government authorities unless the consultations mentioned in Sec. 2(c) and 26 hereof are complied with, and prior approval of the <i>sanggunian</i> concerned is obtained: Provided, that occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution"
<b>Sec. 34</b>	"role of POs and NGOs – LGUs shall promote the establishment and operation of POs and NGOs to become active partners in the pursuit of local autonomy"
<b>Sec. 33</b>	"cooperative undertakings among LGUs – LGUs may, through appropriate ordinances, group themselves, consolidate, or coordinate their efforts, services, and resources for purposes commonly beneficial to them. In support of such undertakings, the LGUs involved may upon approval by the <i>sanggunian</i> concerned after a public hearing conducted for the purpose, contribute funds, real estate, equipment, and other kinds of property and appoint or assign personnel under such terms and conditions as may be agreed upon by the participating local units through Memoranda of Agreement"
<b>Sec. 35</b>	"linkages with POs and NGOs – LGUs may enter into joint ventures and such other cooperative arrangements with POs and NGOs to engage in the delivery of certain basic services, capability-building and livelihood projects, and to develop local enterprises designed to improve productivity and income, diversify agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people"
<b>Sec. 36</b>	"assistance to POs and NGOs – an LGU may, through its local chief executive and with the concurrence of the <i>sanggunian</i> concerned, provide assistance, financial or otherwise, to such POs and NGOs for economic, socially-oriented, environmental, or cultural projects to be implemented within its territorial jurisdiction."

**Table 4. Local Government Code (RA 7160): Provisions pertaining to resource generation and mobilization.**

<b>Sec. 3(d)</b>	"the vesting of duty, responsibility, and accountability in LGU shall be accompanied with provision for reasonably adequate resources to discharge their powers and effectively carry out their functions; hence, they shall have the power to create and broaden their own sources of revenue and the right to a just share in national taxes and an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas"
<b>Sec. 129</b>	"power to create sources of revenue – each LGU shall exercise its power to create its own sources of revenue and to levy taxes, fees, and charges subject to the provisions herein, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the LGUs"
<b>Sec. 186</b>	"power to levy other taxes, fees, or charges – LGUs may exercise the power to levy taxes, fees, or charges on any base or subject not otherwise specifically enumerated herein or taxed under the provisions of the National Internal Revenue Code, as amended, or other applicable laws: Provided, that the taxes, fees, or charges shall not be unjust, excessive, oppressive, confiscatory, or contrary to declared national policy: Provided, further, that the ordinance levying such taxes, fees, or charges shall not be enacted without any prior public hearing conducted for the purpose"
<b>Sec. 289</b>	"share in the proceeds from the development and utilization of national wealth – LGUs shall have an equitable share in the proceeds derived from the utilization and development of the national wealth within their respective areas, including sharing the same with the inhabitants by way of direct benefits"

Decentralization and autonomy introduced drastic changes to the institutional setup of CRM implementation. The passage of the LGC caused a structural shift in power that placed coastal local governments and cities at the forefront of sustainable resource management. Prior to the enactment of the LGC, resource management programs and action plans typically originated from NGAs, with the support of scientific and academic institutions that generated the technical information base for management strategies. These programs were then transmitted down to LGU "clienteles" who were tasked to participate in the implementation strategies.

Under the LGC, the process has been reversed, given the devolution of primary management responsibilities to the local government. The people's direct participation in the planning and implementation stages at the local level has also been reinforced, and now constitutes the foundation of CRM planning. Under this system, the NGAs, NGOs, and scientific institutions become partners of the LGUs in refining their respective CRM plans by providing technical support in planning and implementation.

Decentralization and autonomy also afford the LGU flexibility in resource management and place them at the forefront where environmentally critical national projects are proposed. The

mandate for consultations under Sec. 26 and 27 of the LGC (Table 3) provides the mechanism to articulate and address LGU concerns.

Cooperative undertakings between LGUs augur well for integrated CRM. Usually, the effective management of resources such as fisheries and forests does not lend itself well to rigid geopolitical boundaries. Independent actions taken by LGUs on matters pertaining to resource management have been known to result in negative consequences on account of unforeseen conflicts or impacts, the end result of which is further resource degradation and economic losses. An integrated approach, borne by cooperation among LGUs, is expected to rationalize resource use and improve enforcement.

Consistent with greater fiscal autonomy, the LGC also provides LGUs with various powers to levy certain taxes, fees, or charges. The objective is to enable the LGUs to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national development and social progress. Thus, the taxing authority of the LGUs includes the power to retain and to disburse certain revenues without undue interference from the national government. Fiscal autonomy is enhanced even more by encouraging the LGUs to group themselves, consolidate, or coordinate their efforts, services, and resources for purposes beneficial to them and to their constituents with minimum intervention from the central government. The national government, however, still provides fiscal support to the LGUs. The LGC provides that LGUs are entitled to a share of national revenues derived from the utilization of resources located within the LGUs.

### **THE PHILIPPINE FISHERIES CODE OF 1998**

RA 8550 or the Philippine Fisheries Code of 1998 is a codification of existing fishery laws. Several provisions contain policies which are quite new and innovative, while others reiterate or improve old ones. Notable among the “new” concepts espoused by the Fisheries Code are: (a) limitation of access using scientifically determined procedures; (b) integrated management consistent with inter-LGU cooperation as articulated in the LGC; and (c) enhanced and institutionalized participation by the community through the various levels of FARMCs. The Fisheries Code has largely clarified issues pertaining to the extent of jurisdiction of LGUs in municipal waters and the operation of commercial fishing vessels therein. Key provisions of the Fisheries Code related to local governance of coastal resources are listed in Table 5.

The Fisheries Code consolidates and updates all prior penal laws related to fisheries, and adds new prohibitions. The new provisions include prohibitions against electrofishing, blast and cyanide fishing, use of fine mesh nets, gathering of corals, and use of superlights. The codification of these laws facilitates enforcement, local legislation, and project implementation.

---

**Table 5. Fisheries Code (RA 8550): Provisions pertaining to local governance.**

---

**JURISDICTION**

- **Establishes jurisdiction of municipality/city government over municipal waters (Sec. 16)**  
The municipality/city government shall have jurisdiction over municipal waters. The municipal/city government, in consultation with the FARMC shall be responsible for the management, conservation, development, protection, utilization, and disposition of all fish and fishery/aquatic resources within their respective municipal waters.
- **Provides definition of municipal waters (Sec. 4, (58))**  
Municipal waters include not only streams, lakes, inland bodies of water, and tidal waters within the municipality which are not included within the protected areas as defined under RA 7586 (The NIPAS Act), public forests, timberlands, forest reserves, or fishery reserves, but also marine waters included between two lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore islands and 15 km from it. Where two municipalities are so situated on opposite shores such that there is less than 30 km of marine waters between them, the third line shall be equally distant from the opposite shore of the respective municipalities.

**ENFORCEMENT**

- **Assigns to LGUs the enforcement of all fishery laws, rules, and regulations (Sec. 16; Rule 16.9)**  
The municipal/city government shall enforce fishery laws, rules, and regulations and fisheries ordinances in municipal waters.
- **Authorizes LGUs to seek the assistance of the BFAR in the training of the *Bantay Dagat* Task Force in fishery laws, apprehension techniques, and gathering of evidence (Rule 124.1)**  
The LGUs shall have authority over municipal waters to enforce all fishery laws, rules, and regulations as well as valid fisheries ordinances enacted by the municipality/city council and may seek the assistance of the DA, through the BFAR, in the training of the *Bantay Dagat* Task Force in fishery laws, apprehension techniques, and gathering of evidence.

**LEGISLATION**

- **Mandates the municipal/city government the right to enact appropriate ordinances (Sec. 16)**  
The municipal/city government may, in consultation with the FARMC, enact appropriate ordinances for this purpose and in accordance with the National Fisheries Policy. The ordinances enacted by the municipality and component city shall be reviewed pursuant to RA 7160 by the *sanggunian* of the province which has jurisdiction over the same.
  - **Bestows on municipal/city government to enact a basic Municipal Fisheries Ordinance (Rule 16.1)**  
The municipal/city government shall enact a basic Municipal Fisheries Ordinance (MFO) delineating the boundaries of the municipal waters as defined in this Code and providing rules and regulations on licensing and permits and other fisheries activities: Provided, however, that for municipalities whose waters are adjacent or contiguous to international borders, the delineation of boundaries of municipal waters shall be done after due consultation with the Department of Foreign Affairs (DFA) and other concerned agencies.
  - **Mandates LGUs to enact the appropriate Municipal Fisheries Ordinance prohibiting destructive fishing gear and its variations (Rule 92.2)**  
The LGUs shall enact the appropriate MFO prohibiting destructive fishing gear and its variations in accordance with national policies.
- 

*(continued)*



*Table 5. (continued)*

- **Mandates LGUs to issue the appropriate Municipal Fisheries Ordinance prohibiting the gathering, selling, mining, exporting of white sand in consultation with the Mines and Geosciences Bureau (MGB) (Rule 92.3)**  
The LGUs, in consultation with the MGB, shall issue the appropriate MFO prohibiting the gathering, selling, mining, exporting of white sand which includes coralline and coral sand, silica, and pebbles.

**PROTECTION/CONSERVATION**

- **Authorizes LGUs to prohibit or limit fishery (Sec. 23)**  
Whenever it is determined by the LGUs and the DA that a municipal water is overfished based on available data or information or in danger of being overfished, and that there is a need to regenerate the fishery resources in that water, the LGU shall prohibit or limit fishery activities in the said waters.
- **Authorizes LGUs to recommend to the DA portions of municipal waters that can be declared as fishery reserves (Sec. 80)**  
In municipalities and cities, the concerned LGUs in consultation with the FARMCs may recommend to the DA that portion of the municipal waters be declared as fishery reserves for special or limited use, for educational, research, and/or special management purposes.
- **Authorizes LGUs to establish fishery refuge and sanctuaries (Sec. 81)**  
In municipal waters, the concerned LGU in consultation with the FARMCs may establish fishery refuge and sanctuaries.

**REGULATION**

- **Mandates LGUs to establish the license fees of fishery activities in consultation with the FARMCs (Sec. 6)**  
The license fees of fishery activity in municipal waters shall be determined by the LGUs in consultation with the FARMCs.
- **Mandates the municipal/city council to preferentially grant fishery rights to duly registered municipal fisherfolk, organizations/cooperatives (Sec. 17)**  
The duly registered fisherfolk organizations/cooperatives shall have preference in the grant of fishery rights by the municipal/city council pursuant to Sec. 149 of the LGC: Provided, that in areas where there are special agencies or offices vested with jurisdiction over municipal waters by virtue of special laws creating these agencies such as, but not limited to, the Laguna Lake Development Authority and the Palawan Council for Sustainable Development, said offices and agencies shall continue to grant permits for proper management and implementation of the aforementioned structures.
- **Authorizes the municipal/city council to authorize or permit small and medium commercial fishing vessels to operate through appropriate ordinance (Sec. 18)**  
The municipal/city government may through its local executive and acting pursuant to an appropriate ordinance, authorize or permit small and medium commercial fishing vessels to operate within 10.1 to 15 km area from the shoreline in municipal waters provided that the prescribed conditions are met.
- **Mandates LGUs to maintain a registry of municipal fisherfolk and municipal fishing vessels by type of gear and other boat particulars with the assistance of the FARMC (Sec. 19)**  
The LGU shall maintain a registry of municipal fisherfolk, who are fishing or may desire to fish in municipal waters for the purpose of determining priorities among them, of limiting entry into the municipal waters, and of monitoring fishing activities and/or other related purposes: Provided, that the FARMC shall submit to the LGU the list of priorities for its consideration.

*(continued)*

*Table 5. (continued)*

The LGUs shall also maintain a registry of municipal fishing vessels by type of gear and other boat particulars with the assistance of the FARMC.

- **Instructs LGUs to register all fish hatcheries, fish breeding facilities, and private fishponds (Sec. 57)**  
All fish hatcheries, fish breeding facilities, and private fishponds must be registered with the LGUs, which shall prescribe minimum standards for such facilities in consultation with the DA.
- **Instructs LGUs to register all post-harvest facilities such as fish processing plants, municipal fishing landing sites, fish ports, ice plants, and cold storage and other fishery business establishments (Sec. 60)**  
All post-harvest facilities such as fish processing plants, ice plants, and cold storage fish ports/landings and other fishery business establishments must register with and be licensed by the LGUs which shall prescribe minimum standards for such facilities in consultation with the DA.

#### **COORDINATION AND CONSULTATION**

- **Instructs the BFAR to coordinate with LGUs, FARMCs, and other government agencies in the development, conservation, protection, utilization, and management of fisheries and aquatic resources (Rule 3.1)**  
In municipal waters, the DA-BFAR may coordinate with and assist the LGUs, FARMCs, and other government agencies concerned in the development, conservation, protection, utilization, and management of fisheries and aquatic resources.
- **Recommends for an integrated management of contiguous fishery areas to facilitate management as a single resource system (Sec. 16)**  
The management of contiguous fishery such as bays which straddle several municipalities, cities, or provinces, shall be done in an integrated manner, and shall not be based on political subdivisions of municipal waters in order to facilitate their management as single resource systems. The LGUs, which share or border such resources may group themselves and coordinate with each other to achieve the objectives of integrated fishery resource management. The Integrated Fisheries and Aquatic Resources Management Councils (IFARMCs) established under Sec. 76 of this Code shall serve as the venues for close collaboration among LGUs in the management of contiguous resources.
- **Instructs the BFAR to coordinate with LGUs in the establishment of catch ceiling and/or closed season that includes municipal waters (Sec. 8)**  
In municipal waters and fishery management areas, and waters under the jurisdiction of special agencies, catch ceilings may be established upon the concurrence and approval or recommendation of such special agency and the concerned LGU in consultation with the FARMC for conservation or ecological purposes.
- **Assigns municipal/city LGUs to assist in the creation of FARMCs (Sec. 69)**  
The FARMCs shall be formed by fisherfolk organizations/cooperatives and NGOs in the locality and be assisted by the LGUs and other government entities.

**Modes of limitation of access.** The fishing license and permit system is mandated to be based on the limits of maximum sustainable yield (MSY), with preference in allocation being given to resource users of local communities in adjacent or nearest municipal waters. Catch ceiling limitations are intended to limit access through restrictions on the harvesting of resources. Users of municipal waters are also intended to be largely limited to residents of the city or municipality

to which the municipal waters pertain, as seen in the requirement for the establishment of a registry of municipal fisherfolk. Priority is given to resident fisherfolk and/or their cooperatives and organizations in the granting of demarcated fishery privileges in municipal waters. Fishery activities may also be limited or prohibited in overfished areas. Commercial fishing vessels are also generally prohibited from fishing within municipal waters, unless specifically authorized to do so by the LGU concerned.

The establishment of closed seasons and closed areas, as well as fish refuges and sanctuaries, is another mode of limiting access (temporal and spatial). The municipal government, in consultation with the FARMC, has jurisdiction over the establishment of closed seasons and closed areas within municipal waters, while the BFAR, with the concurrence and approval of the affected LGU and FARMC, may do so in waters beyond the municipal boundaries.

User fees and other fishery charges are based on resource rent. This concept considers social benefits from using the fishery as a resource, over and above financial profits of users. By considering only the latter, there is a tendency to expand fishing effort (both labor and capital) to levels at which society is suffering a net loss. Other procedures recognized as limiting access include the limited entry of both commercial and municipal fishing vessels in areas deemed as overfished by either the DA or relevant LGU. Another is the absolute prohibition on the use of active (e.g., trawl, purse seine, Danish seine, and bag net) fishing gear in municipal waters; and that of fishing beyond the total allowable catch or fishing during closed seasons.

**Jurisdiction of local governments.** The Fisheries Code strengthens the responsibilities of municipal/city government in fishery management through legislation, enforcement, the granting of fishery rights and privileges, and conservation. The ordinance-making functions and jurisdiction of local governments are enumerated by the LGC in Sec. 447 for municipal councils or *Sangguniang Bayan* and Sec. 468 for provincial councils or *Sangguniang Panlalawigan*. It is no longer necessary for LGUs to seek approval of such ordinances from national agencies. LGUs may also enact ordinances for issues which have not been dealt with sufficiently by any national law, provided that it does not contradict any other law. The issuance of licenses for the operation of fish pens, cages, traps, and other structures, municipal fishing vessels, concessions, and the delineation of demarcated fishing areas are likewise within the purview of the LGU through the local legislative councils.

**Priority to municipal fisherfolk.** The preferential rights of subsistence fishers to the use of communal fishing and marine areas, as guaranteed by the Constitution and the LGC, are reiterated by the Fisheries Code through Sec. 7, which states that priority should be given to resource users in the local communities adjacent to municipal waters, and Sec. 17, which refers to the preference for organized local fisherfolk organizations.

**Enforcement.** The Fisheries Code maintains the multiplicity of government agencies and other entities tasked to enforce fishery laws. Persons and deputies who are authorized to enforce the Fisheries Code include law enforcement officers of the DA, Philippine Navy (PN), Philippine Coast Guard (PCG), Philippine National Police-Maritime Group (PNP-MARIG), law enforcement officers of the LGU and other government enforcement agencies, and deputy fish wardens (government officials and employees, *Punong Barangays*, and officers and members of fisherfolk organizations). Such sharing of responsibilities can either be a boon or bane. Numbers enhance strength and coverage of enforcement. However, without clear delineation of tasks both from the geographical and legal perspective such sharing can pose extreme difficulties in effective enforcement.

**People empowerment.** The Fisheries Code highlights the need for people empowerment by providing for FARMCs. FARMCs act as consultative bodies to LGUs in the determination of priorities on fishing activities of municipal fisherfolk; maintenance of a registry of municipal fishing vessels; assisting the LGU in formulating mechanisms to include or exclude fisherfolk or groups in the use of municipal waters; determination of license fees, catch ceilings, closed seasons, fish sanctuaries and/or refuges; and the enactment of appropriate fishery ordinances.

**Integrated management.** The Fisheries Code attempts to strengthen integrated management through the adoption of certain policies. These include the requirement of compliance with the EIA System, and the requirement for a Code of Practice for Sustainable Aquaculture. The Code further posits that shared resources in fishery areas such as bays and rivers should be managed as single integrated resource systems.

**Institutional strengthening.** The BFAR, with a weaker mandate in the past years, has been restored to its line functions, and provided with a reorganized structure that allows it to create regional, provincial, and municipal offices as necessary. An office of Undersecretary of Fisheries and Aquatic Resources has also been created within the DA.

## THE NATIONAL INTEGRATED PROTECTED AREAS SYSTEM ACT

RA 7586, An Act Providing for the Establishment and Management of National Integrated Protected Areas System (NIPAS), was enacted by Congress in 1992 to respond to the profound impact of human activities on all components of the natural environment particularly the effect of increasing population, resource exploitation, and maintaining the natural biological and physical diversities of the environment (Sec. 2). The NIPAS is the national system of classification and administration of all designated protected areas to maintain essential ecological processes and life-support systems, preserve genetic diversity, ensure sustainable use of resources found therein, and maintain their natural conditions to the greatest extent possible (Sec. 4).

Briefly stated, the NIPAS Act allows the government to identify and segregate defined areas of land and/or water, and classify them as protected areas for various purposes. All national parks, wildlife reserves, and sanctuaries existing prior to 1992 are automatically incorporated into the NIPAS. A special management body called the Protected Area Management Board (PAMB) is then constituted, comprised of representatives of the national government, local governments concerned, and the private sector or affected communities, which is tasked with the formulation of management plans to ensure the conservation and sustainable management of the protected area. Although the area is provisionally designated as a protected area through a Presidential Proclamation, once all protected areas have been identified they are to be submitted to Congress, which will thereafter pass a law, which permanently incorporates all such areas under the NIPAS.

Provisions of the NIPAS Act that relate to local governance are listed in Table 6.

**Table 6. NIPAS Act (RA 7586) and its implementing rules and regulations (IRR) (DAO 25, s1992): Provisions related to local governance.**

**A. Information dissemination**

- *Assigns the DENR to advise all LGUs in the affected areas on information pertaining to the establishment of protected areas such as schedules of public hearing, NIPAS Act, and supporting technical documents (Sec. 5, NIPAS Act)*

The DENR shall, at least 30 days prior to the date of hearing, advise all LGUs in the affected areas, national agencies concerned, POs, and NGOs and invite such officials to submit their views on the proposed action at the hearing not later than 30 days following the date of the hearing.

**B. LGU participation in the PAMB**

- *Enumerates the tasks of the PAMB, which includes representatives from LGUs (Sec. 11, NIPAS Act)*

One representative from the municipal government shall be appointed to represent each local government down to each *barangay* level (in the PAMB) whose territory or portion is included in the protected area. The Board shall, by a majority vote, decide the allocations for budget, approve proposals for funding, and decide matters relating to planning, peripheral protection, and general administration of the area in accordance with the general management strategy.

**C. Consultation with communities**

- *Bestows to local governments a part on the decision-making process (Sec. 10, DAO 25)*
- Cultural communities, tenured migrants, other existing protected area users and local governments shall be a part of the decision-making process in zone establishment and management planning.

## THE AGRICULTURE AND FISHERIES MODERNIZATION ACT

RA 8435 or the Agriculture and Fisheries Modernization Act (AFMA) was also enacted in 1998, and attempts to provide the overall framework for industrialization of agriculture in the country, which includes fisheries. Aside from providing various incentives and many programs for developing agricultural production, the AFMA has implications on management of coastal resources insofar as it deals with fishery production.

A key concept in the AFMA is zone-based development of special areas set aside for agricultural and agro-industrial development called Strategic Agricultural and Fisheries Development Zones (SAFDZs). Within these zones, government resources and development projects are to be concentrated with the hope that benefits will spill over to the adjacent areas and eventually spur economic growth. The boundaries of these zones do not necessarily have to coincide with existing political or administrative boundaries, but will be based on production (e.g., crop, livestock, fish), and shall have their own integrated development plans prepared by the DA in coordination with zone committees, concerned departments, offices, LGUs, NGOs, and POs. These plans must be consistent and incorporated in land use and zoning ordinances developed by cities and municipalities.

The AFMA prohibits the conversion of agricultural and fisheries areas within SAFDZ for a period of 5 years from its effectivity. If at all necessary, only 5 percent of the total area determined to be eligible for conversion may be allowed provided that the conversion is consistent with the natural expansion of locality. Moreover, it also penalizes agricultural inactivity, including that of inactive or abandoned fishponds, through an idle land tax of PhP3,000/ha/year or reversion of property to government under normal court proceedings. The Municipal Agricultural Officer (MAO) or concerned fishers' group may initiate such proceedings.

Municipalities/cities and provinces are tasked to develop local Agricultural and Fisheries Modernization Plans (AFMPs). The Provincial Agriculturist and Governor shall review and aggregate all AFMPs which consider multi-area projects. The Planning Service of the DA, the Agricultural Training Institute (ATI) and the Department of the Interior and Local Government (DILG) shall jointly develop an "Agriculture and Fishery Participatory Planning Manual for LGUs" to include the planning process, planning cycles, validation process, and a plan for updating information and communication materials.

The AFMA prioritizes industrialization as its main objective for the agriculture and fisheries sector, and is focused on turning these sectors from resource-based to technology-based industries. This is to be achieved through the formulation of AFMPs that have as their goals food security, poverty alleviation and social equity, income enhancement and profitability, global competitiveness, and sustainability.

## **OTHER LAWS RELEVANT TO COASTAL MANAGEMENT**

The previous sections of this chapter highlight major laws that have significant impacts on coastal management in the Philippines. Of these, it is the LGC that provides sufficient mandate for LGUs, most especially cities and municipalities, to be the locus of coastal management initiatives. The Fisheries Code reiterates the mandates of LGUs and provides the broad framework for the use, conservation, and management of fisheries resources. The AFMA is more general in

character as it tackles mostly the agricultural sector and looks at fisheries as a sub-sector; however, its broad orientation is towards industrialization. Lastly, the NIPAS Act is highlighted because it espouses a strategy of conservation and protection that is best accomplished by the State.

The universe of policy issuances pertaining to coastal management is expectedly more numerous due to the fact that there are varied economic activities in the coastal area aside from fishing. These activities include coastal forestry, tourism, reclamation, development projects such as ports and harbors and human settlements. Furthermore, many of the tasks associated with coastal management are lodged in different government agencies, over and above those of local governments, which have traditionally “managed” these activities. This section highlights other relevant laws and states the limit under which the LGU can implement the law.

Coastal waters are vulnerable to land-based and oceanographic stress factors including anthropogenic and natural events. For management of pollution, the LGU can be guided by provisions of the Pollution Control Law (PD 984), the sanitation code PD 856, and PD 825, which penalizes improper waste disposal, to provide for ample services to regulate and dispose of household wastes. For environmentally critical projects such as ports, reclamation, and mining, the LGU must review provisions of the Environmental Impact Statement (EIS) (PD 1586) law to ensure that due diligence and consultation is satisfied in the preparatory work.

Mangrove forests are still under the jurisdiction of the DENR (except areas released for conversion to fishponds). Presently, EO 263 establishing community-based forest management (CBFM) as the national strategy for protection and regeneration of all forests, provides tenurial instruments for communities to replant mangroves and sustainably use fishery resources according to an approved management plan. Meanwhile, LGUs should ensure and enforce an absolute ban on cutting of naturally grown mangrove stands (Fisheries Code, Forestry Code, and National Internal Revenue Code, amending specific provisions of PD 705). Local governments should also be vigilant against erring fishpond lessees including those who do not pay appropriate fees to the BFAR and LGU, those who have abandoned or underutilized their lease areas, and those who have situated their ponds in unreleased areas.

Another non-fishing issue is use of foreshore lands. Squatting is a pervasive problem in the coastal area but there are also development projects such as tourism resorts which impede on the integrity of the foreshore area. Rather old laws govern the use of foreshore lands such as Commonwealth Act 141 or the Public Land Act of 1936. The jurisdiction of the DENR in the use of all public lands including that of foreshore areas is established by EO 192 and the collection of fees by Lands General Circular No. 58 (1979). The LGU, for its part, must enforce appropriate restrictions and coordinate closely with the DENR. A related issue is that of reclamation. The LGC authorizes provinces and cities to embark on reclamation projects under the supervision of the Public Estates Authority (PEA) (EO 525). However, LGUs must subscribe to the EIS law and the DENR must ensure that this is followed.

A provision of the Water Code or PD 1067 which has been disregarded by LGUs, developers and even national agencies is the maintenance of easement or salvage zones. Art. 51 states that “the banks of rivers and streams and the shores of the seas and lakes throughout their entire length and within a zone of 3 m in urban areas, 20 m in agricultural areas, and 40 m in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, floatage, fishing, and salvage. No person shall be allowed to stay in this zone longer than what is necessary for recreation, navigation, floatage, fishing, or salvage or to build structures of any kind.” Furthermore, PD 1198 requires the rehabilitation of damaged foreshore areas to their original condition.

Port management is one function which LGUs have to share with national agencies, specifically the Philippine Ports Authority (PPA) as per PD 857. This holds true for ports which have been built and are presently managed by the PPA. Revenues generated from port operations are thus automatically transmitted to the national treasury. However, revenues are retained for ports built by the LGU. LGUs must subscribe to the EIS law and DENR review and approval.

One coastal management function which is shared by a multitude of agencies is that of enforcement. This function is shared among the PNP-MARIG (RA 6975), the PCG (RA 5173, PD 600), the PN (RA 8550), BFAR and DENR, LGU officials as part of their inherent functions, *Barangay* Captains and councilmen with respect to pollution control (PD 7160). Enforcement of laws, especially those pertaining to the environment, is complicated, difficult to monitor, and at worse, totally disregarded. The many task forces and committees created by the Executive Department (EO 114, Presidential Committee on Illegal Fishing and Marine Conservation; EO 117, establishing the Inter-Agency Task Force for Coastal Environment Protection; and AO 201, providing for the Monitoring, Control, and Surveillance system) to combat illegal fishing, for example, is a testament to this chronic problem.

## **INTERNATIONAL AGREEMENTS**

The Philippine Government supports global efforts to protect the environment by being a State Party to several international treaties, as well as global programs of action on various aspects of the environment (Table 7). Some of these treaties have significant implications to resource management programs at the national and local level. For example, the United Nations Convention on the Law of the Sea (UNCLOS) brings the Philippines within the international legal regime recognized by the community of nations on the proper management of the oceans. It also commits the Philippines to cooperate in international efforts to protect and preserve the marine environment, which opens up the possibility of international cooperative projects for marine resource management, ocean technology transfer, and information exchange in matters of common interest.



*Table 7. Some international environmental treaties ratified by the Philippines and global programs of action.*

- International Convention for the Regulation of Whaling
- International Plant Protection Convention
- International Convention for the Prevention of Pollution of the Sea by Oil
- Amendments to the International Convention for the Prevention of Pollution of the Sea by Oil, Concerning Tank Arrangements and Limitation of Tank Size
- Amendments to the International Convention for the Prevention of Pollution of the Sea by Oil Concerning the Protection of the Great Barrier Reef
- Convention on Wetlands of International Importance especially as Waterfowl Habitat
- Convention Concerning the Protection of the World Cultural and Natural Heritage
- Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
- Convention on the Conservation of Migratory Species of Wild Animals
- United Nations Convention on the Law of the Sea (UNCLOS)
- Agreement Relating to the Implementation of Part XI of 1982 UNCLOS
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal
- Vienna Convention on the Protection of the Ozone Layer
- Montreal Protocol on the Substances that Deplete the Ozone Layer
- Fund Protocol Relating to the International Convention on the Establishment of an International Oil Pollution Compensation Fund
- Agenda 21 UNCED, 1992
- Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, UNEP, 1995
- Code of Conduct for Responsible Fisheries, Food and Agriculture Organization, 1995

Other treaties are being implemented locally through the enactment of national laws. These include the Toxic Substances, Hazardous and Nuclear Wastes Control Act (RA 6969) which implements the country's commitments under the Basel Convention, and the Philippine Agenda 21, which is the local blueprint for implementation of the provisions of the UNCED Agenda 21. CRM is one of the major strategic interventions recommended in Chapter 17 of Agenda 21.

One treaty which is significant to CRM, as it may involve the cooperation of local government authorities, is CITES. CITES is a treaty between 151 states which have agreed to control or prohibit the international trade of over 40,000 species of animals and plants, including any products made from them, depending on the extent of the threat to their survival as a species. The Parties to the treaty apply a system of permits and certificates, which are issued when certain conditions are met and which have to be presented when consignments of specimens of species listed under the agreement leave or enter a country. Since the sources of these flora and fauna are directly within their jurisdictions, local governments are required to prevent the collection, trafficking of, and trade in the species listed under CITES. With respect to the marine environment, this includes 21 species of marine mammals (whales, dolphins, *dugong*, and porpoise); 3 species of *Reptilla* (seawater snakes); 2 species of *Arowana* and 1 species of giant

catfish; 7 species of shelled mollusks (*Tridacna* spp. and *Hippopus* spp.); and at least 26 species of corals (Annex E).

CITES is currently being implemented in the country through the DENR and BFAR. Marine mollusks which are protected under CITES, for example, cannot be gathered under Fisheries Administrative Order (FAO) Nos. 158, 168, and 168-2. All corals, on the other hand, are protected under the FAO 202, s2000. The capture, sale, possession, transport, and purchase of dolphins are banned under FAO 185, s1992. The capture, sale, purchase, possession, transport, and export of whale sharks and manta rays are prohibited under FAO 193, s1998.

Due to the inherent difficulties in international treaty-making, countries have recently begun resorting to less formal instruments with varying degrees of binding force. Among these instruments are so-called programs of action and codes of conduct. One of the more recent is the Code of Conduct for Responsible Fisheries, which resulted from a series of international initiatives sponsored by the UN Food and Agriculture Organization calling for responsible, sustainable fisheries. The Food and Agriculture Organization Conference unanimously adopted the Code of Conduct on 31 October 1995 at its Twenty-eighth Session in Rome, which included the Philippines. It provides a general framework for national and international efforts to ensure sustainable exploitation of aquatic living resources in harmony with the environment.

The Food and Agriculture Organization Code contains general guidelines for the use and management of six areas of aquatic resources management, including fisheries management; fisheries operation; aquaculture development; integration of fisheries into coastal area management; post-harvest practices and trade; and fisheries research (Table 8).

**Table 8. Highlights of the Food and Agriculture Organization Code of Conduct for Responsible Fisheries.**

**Fisheries management**

- States should adopt measures based on best scientific evidence available for the long-term conservation and sustainable use of fisheries resources – through appropriate policy, legal, and institutional framework.
- States should apply the precautionary approach to conservation, management, and exploitation of living aquatic resources. Such approach considers: uncertainties relating to size and productivity of stocks, stock condition in relation to such reference points, levels and distribution of fishing mortality, and the impact of fishing activities.
- States should cooperate with each other through bilateral/subregional/regional fisheries organizations. Mechanisms for fisheries monitoring, surveillance, control, and enforcement should also be drawn to ensure that compliance and transparency in the mechanisms for fisheries management should be practiced.

**Fisheries operation**

- Only fishing operations allowed by the States are conducted within waters under their jurisdiction and these operations are carried out in a responsible manner.
- Fishing which is safe to human life, nondestructive to the resources, documented, selective, efficient in the use of energy, adoptive of appropriate technology, decreases discards, minimizes loss of fishing gears, and well-assessed as to its effect to the habitat, should be promoted.

*(continued)*

*Table 8. (continued)***Aquaculture development**

- States should promote responsible development and management of aquaculture, including an advance evaluation of the effects of aquaculture development on genetic diversity and ecosystem integrity, based on the available scientific information.
- States should produce and regularly update aquaculture development strategies and plans to ensure that aquaculture development is ecologically sustainable and to allow the rational use of resources shared by aquaculture and other activities.
- States should not only ensure that the livelihoods of local communities, and their access to fishing grounds, are not negatively affected by aquaculture developments, but should also undertake appropriate environmental assessment and monitoring specific to aquaculture to minimize adverse ecological changes and related economic and social consequences resulting from water extraction, land use, discharge of effluents, use of drugs and chemicals, and other aquaculture activities.

**Integration of fisheries into coastal area management**

- States should ensure that an appropriate policy, legal, and institutional framework is adopted to achieve the sustainable and integrated use of the resources, taking into account the fragility of coastal ecosystems and the finite nature of their natural resources and the needs of coastal communities.
- Representatives of the fisheries sector and fishing communities should be consulted in the decision-making processes.
- Constant need for public awareness for the protection and management of coastal resources is stressed.
- The value of coastal resources should account for economic, social, and cultural factors.
- Coastal environment monitoring should use all physical, chemical, biological, economic, and social parameters.
- States should establish mechanisms for cooperation and coordination among national authorities involved in planning, development, conservation, and management of coastal areas.

**Post-harvest practices and trade**

- States should adopt appropriate measures to ensure the right of consumers to safe, wholesome, and unadulterated fish and fishery products by establishing national safety and quality assurance systems to protect consumer health and prevent commercial fraud.
- International trade should not compromise the sustainable development of fisheries and responsible utilization of living aquatic resources.

**Fisheries research**

- States should recognize that responsible fisheries require sound scientific basis to assist fisheries managers and other interested parties in making decisions.
- States should ensure that appropriate research is conducted in all aspects of fisheries including biology, ecology, technology, environmental science, economics, social science, aquaculture, and nutritional science, that research facilities and training are made available, and that human resources as well as responsive institutions are developed to conduct the research, taking into account the special needs of developing countries.
- States should ensure that research results are used as basis for the setting of management objectives, reference points, and performance criteria, as well as for ensuring adequate linkages between applied research and fisheries management should be promoted.
- Relevant technical and financial international organizations should, upon request, support States in their research efforts, devoting special attention to developing countries.

# *chapter 4*

## ***Local jurisdictional framework for coastal management***

---

National policies and laws provide the parameters for coastal management. It is within this legal framework that LGUs and NGAs exercise powers and assume responsibilities pursuant to their mandates under the law. Integrated management of coastal resources is best achieved through a co-management approach, wherein local government and coastal communities play a central role in planning and implementation of management policy and the NGAs and assisting organizations play supporting, guiding, and monitoring roles.

In this chapter, the local jurisdictional framework for coastal management is presented from three different perspectives. The first perspective is from blending broad mandates for local governance, decentralization, and autonomy provided for under the LGC with other sectoral and specific laws and issuances related to fisheries and other coastal resources. The second perspective organizes LGU mandates and responsibilities within the context of basic service delivery guided by a multisectoral and cyclical process of CRM planning and implementation. In another perspective, the role of supporting and assisting organizations in coastal management, which include NGAs, NGOs, and POs, is described as an essential element of basic service delivery. Finally, as the process of devolution of authority is ongoing, emerging institutional arrangements and responsibilities are documented for further development.

### **BLENDING NATIONAL AND LOCAL MANDATES FOR COASTAL MANAGEMENT**

The LGC embodies a comprehensive legal regime for local-level management of resources, including coastal and marine resources. But, in view of the broadly worded scope of management powers and the complicated system of jurisdictions between the national government and its agencies and the LGUs, there is a need for specific guidance on how to respond to issues pertaining to jurisdiction, resolution of conflicts, legal options and remedies available, and extent of powers and prerogatives available to local communities and institutions.

National laws pertaining to CRM such as those on fisheries, mangrove forestry, mining and quarrying, and environmental protection limit the extent to which local governments can legislate, and also provide the specific parameters of their actions. It is possible for LGUs to simply implement and enforce existing national laws, through adoption of the latter's provisions in local ordinances, or through simple directives to enforce the law. Where the national law is vague or implementation is problematic, local governments may seek to fill the gaps through their local legislative powers. The complementarity of broad provisions in the LGC and specific national laws is laid out in Table 9.

Table 9. Complementarity of LGC provisions and existing laws on CRM.

Local Government Code	Related laws and administrative orders
<b>Basic services and facilities</b>	
A BARANGAY SHOULD PROVIDE "services and facilities related to general hygiene and sanitation, beautification and solid waste collection" (Sec. 17(b)(1)(iii))	<p>PD 856, Sanitation Code of the Philippines (1975) – prescribes drinking water standards; prohibits selling of fish caught using chemicals and explosives</p> <p>PD 984, Pollution Control Law (1976) – establishes a national policy to prevent, abate, and control pollution of air, water, and land</p> <p>PD 825, Penalizing improper waste disposal (1979) – penalizes improper disposal of garbage and other forms of uncleanness</p>
A MUNICIPALITY SHOULD PROVIDE "extension and on-site research services and facilities related to agriculture and fishery activities which include dispersal of livestock, poultry, fingerlings, and other seeding materials for aquaculture; <i>palay</i> , corn, and vegetable seed farms; medicinal plant gardens; fruit tree, coconut, and other kinds of seedling nurseries; demonstration farms; quality control of copra and improvement and development of local distribution channels, preferably through cooperatives' inter- <i>barangay</i> irrigation systems; water and soil resource utilization and conservation projects; and enforcement of fishery laws in municipal waters including the conservation of mangroves" (Sec. 17 (b)(2)(i))	<p>RA 8435, AFMA (1997) – provides extension services to municipalities; provides for agriculture and fisheries zoning plans irrespective of political boundaries</p> <p>RA 8550, Fisheries Code (1998) – clarifies jurisdiction of municipalities and cities in the management of municipal waters to include functions pertaining to enforcement, legislation, regulation of fishing activities, conservation, and planning</p> <p>EO 240 (1995) – creation of FARMCs</p> <p>DA-DILG Joint MOA (1994) – devolves more fishery functions to the LGUs</p> <p>DA-DILG Joint AO No. 3 (1996) – rules on preferential treatment to small fisherfolk</p> <p>DA-DILG-DENR-DOJ Joint Memorandum Order No. 2 (1996) – guidelines on implementation of EO 240</p> <p>DA-DILG Joint AO No. 4 (1996) – regulation on the utilization of superlights for fishing purposes</p> <p>MNR AO No. 3 (1982) – lands suitable for fishponds to be placed under the administration of the BFAR</p> <p>DAO 15 (1990) – guidelines for the establishment and management of mangrove plantations</p> <p>DAO 30 (1992) – guidelines for the transfer and implementation of DENR functions devolved to LGUs</p> <p>DAO 30 (1994) – guidelines for NGO-assisted community-based mangrove forest management</p> <p>All subsisting FAOs issued by the BFAR</p>
A MUNICIPALITY SHOULD "pursuant to national policies and subject to the supervision, control, and review of the DENR, implement community-based forestry projects which include integrated social forestry programs and similar projects; manage and control communal forests with an area not exceeding 50 km <sup>2</sup> ; establish tree parks, greenbelts, and similar forest development projects" Sec. 17 b(2)(ii)	<p>RA 7586, NIPAS Act (1991) – establishes national protected area system in high biodiversity areas; protected seascapes are excluded from municipal waters</p> <p>RA 7161 (1991) – amendments to National Internal Revenue Code of 1977; bans cutting of all mangrove species</p> <p>RA 7881 (1994) – amendments to RA 6657, Comprehensive Agrarian Reform Law (CARL), pertaining to coverage of fishponds</p> <p>PD 705 (1975) – mangroves and swamplands needed for coastal protection; identifies river banks, easements, deltas, etc. as reforestable areas</p>

(continued)

Table 9. (continued)

Local Government Code	Related laws and administrative orders
	<p>EO 263 (1995) – establishes community-based forest management program; provides tenurial instrument for communities in mangrove areas</p> <p>DAR-DA Joint AO No. 18 (1991) – rules and guidelines governing the distribution of cancelled or expired Fishpond Lease Agreements (FLAs) under EO 407 as amended by EO 448</p> <p>DA-DENR Joint General Memorandum Order No. 3 (1991) – guidelines on reversion of underutilized, undeveloped, abandoned fishponds to mangroves</p> <p>DAO 76 (1987) – establishes buffer zones in coastal and estuarine mangrove areas</p> <p>DAO 7 (1989) – suspends acceptance of prospecting permits in reservations</p> <p>DAO 4 (1990) – water usage/quality classification</p> <p>DAO 15 (1990) – regulations governing management of mangroves</p> <p>DAO 3 (1991) – policies on mangrove stewardship agreements</p> <p>DAO 34 (1991) – guidelines for issuance of environmental compliance certificates (ECCs) for fishpond development</p> <p>DAO 25 (1992) – IRR of the NIPAS Act</p> <p>DAO 30 (1992) – guidelines for the transfer and implementation of DENR functions devolved to LGUs</p> <p>DAO 19 (1993) – creates the Coastal Environment Program (CEP)</p> <p>DAO 28 (1993) – establishes the CEP Office</p> <p>DAO 30 (1994) – implementing guidelines for NGO-assisted community-based mangrove forest management (CBMFM) for the DENR</p> <p>MNR AO No. 3 (1982) – transfers lands suitable for fishponds to BFAR administration</p> <p>MNR AO No. 42 (1986) – expands mangrove buffer zones in typhoon prone areas</p>
<p>A MUNICIPALITY SHOULD PROVIDE “solid waste disposal system or environmental management system and services or facilities related to general hygiene and sanitation” (Sec. 17 b(2) (vi))</p>	<p>RA 6969 (1990) – enumerates toxic and hazardous wastes</p> <p>PD 979 (1974) – Marine Pollution Decree</p> <p>PD 856, Sanitation Code of the Philippines (1975) – prescribes drinking water standards; prohibits selling of fish caught using chemicals and explosives</p> <p>PD 1067, Water Code of the Philippines (1976) – establishes recreation/easement zones in banks of rivers and streams and shores of seas and lakes</p> <p>PD 1152, Philippine Environment Code (1977) – prescribes environmental quality standards for air, water, land, fisheries, and aquatic resources, wildlife, soil, etc.</p> <p>PD 1586 (1978) – establishes the EIS System</p> <p>PD 825, Penalizing improper waste disposal (1979) – penalizes improper disposal of garbage and other forms of uncleanness</p>

(continued)

Table 9. (continued)

Local Government Code	Related laws and administrative orders
	<p>DAO 34 (1990) – revised water usage and classification/water quality criteria</p> <p>DAO 35 (1990) – revised effluent regulations of 1990</p> <p>DAO 30 (1992) – guidelines for the transfer and implementation of DENR functions devolved to LGUs</p> <p>DAO 96-37 (1996) – further strengthens the EIS System</p>
<p>A MUNICIPALITY SHOULD PROVIDE “infrastructure facilities intended primarily to service the needs of the residents of the municipality and which are funded out of municipal funds including, but not limited to, municipal roads and bridges; school buildings and other facilities for public and elementary and secondary schools; clinics, health centers, and other health facilities necessary to carry out health services; communal irrigation, small water impounding projects, and other similar projects; fish ports; artesian wells, spring development, rainwater collectors, and water supply systems; seawalls, dikes, drainage, and sewerage and flood control; traffic signals and road signs and similar facilities” (Sec. 17 b(2) (viii))</p> <p>and</p> <p>A PROVINCE SHOULD PROVIDE “infrastructure facilities intended to service the needs of the residents of the province and which are funded out of provincial funds including, but not limited to, provincial roads and bridges; inter-municipal waterworks, drainage and sewerage, flood control, and irrigation systems; reclamation projects; and similar facilities” (Sec. 17(b)(3)(vii))</p>	<p>Commonwealth Act (CA) 141, Public Land Act (1936) – classification and concession of public lands suitable for residence, commerce and industry; rules governing sale or lease of reclaimed, foreshore, and/or marshy public lands</p> <p>RA 293 (1948) – authorizes the sale of marshy lands or lands under water bordering shores; excludes foreshore lands</p> <p>RA 2694 (1960) – amends certain provisions of CA 141; provides for schedule of rentals for foreshore land</p> <p>PD 857 (1975) – designates the PPA to oversee and manage ports</p> <p>PD 1084 (1977) – creates the PEA and designates it as the primary agency responsible for all reclamation projects</p> <p>EO 252 (1979) – IRR of PD 1084</p> <p>DAO 76 (1987) – establishes buffer zones in coastal and estuarine mangrove areas</p> <p>DAO 30 (1992) – guidelines for the transfer and implementation of DENR functions devolved to LGUs (series on devolved land management functions)</p> <p>DAO 96-37 (1996) – revises DAO 21, s1992, to further strengthen the EIS system</p> <p>DAO 2000-11 (2000) – schedule of approving authority for foreshore lease</p>
<p>A MUNICIPALITY SHOULD PROVIDE “tourism facilities and other tourist attractions, including acquisition of equipment, regulation and supervision of business concessions, and security services for such facilities” (Sec. 17 b(2) (xi)) and (xii) tourism development and promotion programs (Sec. 17(b)(3)(xii))</p>	<p>CA141 (1936) – rules governing sale or lease of reclaimed, foreshore, and/or marshy public lands</p> <p>RA 293 (1948) – authorizes the sale of marshy lands or lands under water bordering shores; excludes foreshore lands</p> <p>RA 2694 (1960) – amends certain provisions of CA 141; provides for schedule of rentals for foreshore land</p> <p>RA 7586 (1991) – NIPAS Act</p> <p>PD 564 (1974) – Philippine Tourism Authority (PTA) Charter, which tasks this agency to administer and regulate tourist zones and marine reserves</p>

(continued)

Table 9. (continued)

Local Government Code	Related laws and administrative orders
	<p>PD 1067, Water Code of the Philippines (1976) – Art. 51 states that use of the banks of rivers, lakes, streams, and ponds, throughout their entire length and within a distance of 3 m in urban areas, 20 m in agricultural areas, and 40 m along forest areas along their margins is subject to public easement where building of structures of any kind is prohibited</p> <p>DAO 96-37 – revises DAO 21, s1992, to further strengthen the EIS System</p> <p>PD 1586, Establishing the EIS System (1978) – guidelines for proper land or water use patterns for certain tourism projects such as hotels, etc.</p> <p>EO 525 (1979) – designates the PEA as the agency primarily responsible for all reclamation projects</p> <p>DAO 76 (1987) – establishes buffer zones in coastal and estuarine mangrove areas</p> <p>DAO 34 (1990) – revised water usage and classification standards/water quality criteria for tourist areas</p> <p>DAO 8 (1991) – guidelines on the issuance of ECC for the conversion of agricultural lands to non-agricultural uses</p> <p>DAO 96-37 (1996) – revises DAO 21, s1992, to further strengthen the EIS System</p> <p>DAO 98-24 (1998) – schedule of approving authority for foreshore lease</p> <p>MNR AO 42 (1986) – expansion of forest belt areas in storm surge typhoon prone areas: mangrove forest belt areas expanded to 100-m strip inland along shorelines facing seas, oceans, and other water bodies in specific provinces</p> <p>DENR Memo Circular No. 12 (1991) – policy on the issuances of licenses, leases, and permits covering islands with areas less than 50,000 ha</p> <p>Lands General Circular No. 58 (1979) – directs District Land Officers to collect occupation fees on foreshore, marshy, reclaimed, and other government lands occupied by any person without authority or permit</p>
<p>A PROVINCE SHOULD PROVIDE “agricultural extension and on-site research services and facilities which include the prevention and control of plant and animal pests and diseases; dairy farms, livestock markets, animal breeding stations, and artificial insemination centers; and assistance in the organization of farmers and fishers cooperatives and other collective organizations, as well as transfer of appropriate technology” (Sec. 17(b)(3)(i))</p>	<p>RA 8435, AFMA (1997) – training to be provided by BFAR Regional Fishermen’s Training Centers (RFTCs)</p> <p>RA 8550 (1998) – BFAR to establish National Fisheries Extension Program</p> <p>EO 240 (1995) – creates FARMCs</p> <p>DA-DILG-DENR-DOJ Joint AO No. 2 (1996) – IRR of EO 240 (FARMCs)</p> <p>DA-DILG Joint AO No. 3 (1996) – implementing guidelines for granting of preferential treatment to small fisherfolk relative to the 15-km municipal waters</p> <p>DAO 30 (1992) – guidelines for the transfer and implementation of DENR functions devolved to LGUs</p>

(continued)



Table 9. (continued)

Local Government Code	Related laws and administrative orders
A PROVINCE SHOULD “pursuant to national policies and subject to supervision, control, and review of the DENR, enforce forestry laws limited to community-based forestry projects, pollution control law, small-scale mining law, and other laws on the protection of the environment; and mini-hydro electric projects for local purposes” (Sec. 17(b)(3)(iii))	RA 6969 (1990) – Toxic and Hazardous Waste Act RA 7076 (1990) – an act creating a People's Small-scale Mining Program RA 7586 (1991) – NIPAS Act; prohibition of mining in protected areas RA 7942 (1995) – Philippine Mining Act RA 8550, Fisheries Code (1998) – bans gathering, selling, or exporting of white sand, silica, pebbles, and any other substances which make up the marine habitat PD 463, as amended by PD 1385 and PD 1677 (1974) – Mineral Resources Development Decree PD 1067 (1977) – Water Code of the Philippines, Art. 77 – mine tailings shall not be dumped into rivers and waterways PD 1152 (1977) – Philippine Environment Code PD 1198 (1977) – requires the rehabilitation of areas to their original condition PD 1586 (1978) – EIS System EO 153 (1999) – authorizes the utilization of offshore areas not covered by approved mining permits and contracts as sources of dredgefill materials for government reclamation projects and for other purposes DAO 35 (1990) – establishes effluent standards DAO 30 (1992) – guidelines for the transfer and implementation of DENR functions devolved to LGUs DAO 82 (1992) – guidelines for issuance of permits for pebble picking along beaches DAO 23 (1995) – IRR for RA 7942, otherwise known as the Philippine Mining Act of 1995 DAO 96-37 (1996) – revises DAO 21, s1992, to further strengthen the EIS System
<b>Fishery Rentals, Fees, and Charges</b>	
(a) Municipalities shall have the exclusive authority to grant fishery privileges in the municipal waters and impose rentals, fees, or charges therefor in accordance with the provisions of this Section. (b) The <i>Sangguniang Bayan</i> may: (1) Grant fishery privileges to erect fish corrals, oyster, mussel or other aquatic beds or <i>bangus</i> fry areas, within a definite zone of the municipal waters, as determined by it: Provided, however, that duly registered organizations and	RA 8435, AFMA (1997) – provides extension services to municipalities; provides for agriculture and fisheries zoning plans irrespective of political boundaries RA 8550, Fisheries Code (1998) – clarifies jurisdiction of municipalities and cities in the management of municipal waters to include functions pertaining to enforcement, legislation, regulation of fishing activities, conservation, and planning EO 240 (1995) – creates FARMCs DA-DILG Joint MOA (1994) – devolves more fishery functions to LGUs DA-DILG Joint AO No. 3 (1996) – rules on preferential treatment to small fisherfolk

(continued)

Table 9. (continued)

Local Government Code	Related laws and administrative orders
<p>cooperatives of marginal fishermen shall have the preferential right to such fishery privileges: Provided, further, that the <i>Sangguniang Bayan</i> may require a public bidding in conformity with and pursuant to an ordinance for the grant of such privileges: Provided, finally, that in the absence of such organizations and cooperatives or their failure to exercise their preferential right, other parties may participate in the public bidding in conformity with the above cited procedure. (2) Grant the privilege to gather, take, or catch <i>bangus</i> fry, prawn fry, or <i>kawag-kawag</i> or fry of other fish species from the municipal waters by nets, traps, or other fishing gear to marginal fishermen free of any rental, fee, charge, or any other imposition whatsoever. (3) Issue licenses for the operation of fishing vessels of 3 t or less for which purpose the <i>Sangguniang Bayan</i> shall promulgate rules and regulations regarding the issuances of such licenses to qualified applicants under existing law; (4) Provided, however, that the <i>sanggunian</i> concerned shall, by appropriate ordinance, penalize the use of explosives, noxious, or poisonous substances, electricity, <i>muro-ami</i>, and other deleterious methods of fishing and prescribe a criminal penalty therefor in accordance with the provisions of this Code: Provided, finally, that the <i>sanggunian</i> concerned shall have the authority to prosecute any violation of the provisions of applicable fishery laws (Sec. 149).</p>	<p>DA-DILG-DENR-DOJ Joint Memorandum Order No. 2 (1996) – guidelines on the implementation of EO 240  DA-DILG Joint AO No. 4 (1996) – regulation on the utilization of superlights for fishing purposes  MNR AO No. 3 (1982) – lands suitable for fishponds to be placed under the administration of the BFAR  DAO 15 (1990) – guidelines for the establishment and management of mangrove plantations  DAO 30 (1992) – guidelines for the transfer and implementation of DENR functions devolved to LGUs  DAO 30 (1994) – guidelines for NGO-assisted community-based mangrove forest management</p>
<b>Tax on Sand, Gravel, and Other Quarry Resources</b>	
<p>“The province may levy and collect not more than 10 percent of the fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.”</p>	<p>RA 6969 (1990) – Toxic and Hazardous Waste Act  RA 7076 (1990) – an act creating a People's Small-scale Mining Program  RA 7586 (1991) – NIPAS Act; prohibition of mining in protected areas  RA 7942 (1995) – Philippine Mining Act  RA 8550, Fisheries Code (1998) – bans gathering, selling, or exporting of white sand, silica, pebbles, and any other substances which make up the marine habitat  PD 463, as amended by PD 1385 and PD 1677 (1974) – Mineral Resources Development Decree</p>

(continued)

Table 9. (continued)

Local Government Code	Related laws and administrative orders
<p>The permit to extract sand, gravel, and other quarry resources shall be issued by the provincial governor, pursuant to the ordinance of the <i>Sangguniang Panlalawigan</i>.</p> <p>The proceeds of the tax on sand, gravel, and other quarry resources shall be distributed as follows:</p> <p>“(1) Province - 30 percent;</p> <p>(2) Component city or municipality where the sand, gravel, and other quarry resources are extracted - 30 percent; and</p> <p>(3) <i>Barangay</i> where the sand, gravel, and other quarry resources are extracted - 40 percent” (Sec. 138)</p>	<p>PD 1067 (1977) – Water Code of the Philippines, Art. 77 – mine tailings shall not be dumped into rivers and waterways</p> <p>PD 1152 (1977) – Philippine Environment Code</p> <p>PD 1198 (1977) – requires the rehabilitation of areas to their original condition</p> <p>PD 1586 (1978) – EIS System</p> <p>EO 153 (1999) – authorizes the utilization of offshore areas not covered by approved mining permits and contracts as sources of dredgefill materials for government reclamation projects and for other purposes</p> <p>DAO 35 (1990) – establishes effluent standards</p> <p>DAO 30 (1992) – guidelines for the transfer and implementation of DENR functions devolved to LGUs</p> <p>DAO 82 (1992) – guidelines for the issuance of permits for pebble picking along beaches</p> <p>DAO 23 (1995) – IRR for RA 7942, otherwise known as the Philippine Mining Act of 1995</p> <p>DAO 96-37 (1996) – revises DAO 21, s1992 to further strengthen the EIS System</p>
<b>Chief Executive: Powers, Duties, and Functions</b>	
<p>THE <i>PUNONG BARANGAY</i> SHALL “(1) enforce all laws and ordinances which are applicable within the <i>barangay</i>; (2) enforce laws and regulations relating to pollution control and protection of the environment” (Sec. 389)</p> <p>THE MUNICIPAL MAYOR SHALL “enforce all laws and ordinances relative to the governance of the municipality and the exercise of its corporate powers provided for under Sec. 22 of this Code, implement all approved policies, programs, projects, services, and activities of the municipality and, in addition to the foregoing, shall issue such executive orders as are necessary for the proper enforcement and execution of laws and ordinances” (Sec. 444(b) (2)(iii)).</p> <p>THE PROVINCIAL GOVERNOR SHALL “enforce all laws and ordinances relative to the governance of the province, and shall ensure that the acts of component cities and municipalities are within the scope of their powers; issue executive orders for the faithful and appropriate enforcement and execution of laws and ordinances; adopt measures to safeguard and conserve land, mineral, marine, forest, and other resources of the</p>	<p>RA 6975 (1990) – creates the Maritime Police Unit and tasks it to perform all police functions over Philippine territorial waters and rivers</p> <p>RA 8550 (1998) – provides penalties for certain forms of illegal fishing and dealing in illegally caught fish, etc.; provides for deputation of local fish wardens by BFAR</p> <p>PD 600 (1974) – the PCG has the primary responsibility to enforce laws, rules, and regulations governing marine pollution</p> <p>PD 601 (1974) – revises RA 5173 or the Coast Guard Law and consolidates fragmented functions</p> <p>PD 979 (1974) – Marine Pollution Decree; responsibility to enforce laws, rules, and regulations governing marine pollution</p> <p>PD 825 (1975) – the Secretary of Public Works, with assistance from health officials and the local government concerned, implements the law providing penalty for improper disposal of garbage and other forms of uncleanness</p> <p>PD 1160 (1977) – deputizes the <i>barangay</i> captain, councilman, zone chairman as peace officers, with authority to arrest violators of rules and regulations governing pollution control</p> <p>LOI 550 (1977) – directs the Secretary of Natural Resources to train <i>barangay</i> officials as deputy fish wardens and/or deputy forest wardens</p> <p>EO 117 (1993) – establishes the Inter-Agency Task Force for Coastal Environment Protection</p>

(continued)

Table 9. (continued)

Local Government Code	Related laws and administrative orders
municipality” (Sec. 444(b)(3)(vii); Sec. 465(b)(2)(i and iii); (b)(3)(v))	EO 477 (1998) – transfers the PCG to the Department of Transportation and Communication (DOTC) AO 114 (1989) – constitutes the Presidential Committee on Illegal Fishing and Marine Conservation AO 201 (1995) – provides the coordination mechanism for monitoring, control, and surveillance DENR AO 41 (1991) – guidelines governing the deputation of Environment and Natural Resources Officers DENR AO 03 (1995) – guidelines and criteria to be observed in the selection of LGU, NGO, and PO representatives to PAMB. All subsisting FAOs issued by the BFAR

Coastal management may be viewed as among the inherent functions of LGUs in accordance with their general powers of management within their territorial jurisdictions. For coastal municipalities and cities, this mandate extends to the municipal waters out to a distance of 15 km from the shoreline. Local government powers and responsibilities in coastal areas include provision of services, extension and technical assistance, protection, regulation, revenue generation, enforcement, local legislation, conduct of intergovernment relations, and relations with POs and NGOs.

All these responsibilities have adequate legal and policy support. The relevant provisions of laws pertaining to each function are indicated together with the institutional level that is mandated to undertake the task in Table 10. Cities and municipalities perform most of the identified functions, since it is at their level that most of the necessary legislative and executive powers lie. The province is given a clear role in technical assistance/extension. Protection and conservation are primarily assigned to the municipalities and cities, but it is noteworthy that the provinces are also provided by the LGC with a blanket authority for the “preservation of the natural ecosystem.” Planning for coastal management is not clearly identified in either the LGC or the Fisheries Code. However, this may necessarily be included in the general planning functions of the various LGUs, as the nature of the exercise (i.e., whether it is coastal management planning, land use planning, or the like) is determined by the nature of the subject of management action.

LGUs enjoy fiscal autonomy under the LGC. Generating revenues from various coastal resource uses provides one mechanism for sustaining investment in coastal management. Local governments have seven sources of revenues. The sources of revenues and resource-generation powers of local governments are:

- ◆ Taxes, fees, and charges;
- ◆ Just share in the national taxes;
- ◆ Equitable share in the national wealth;
- ◆ Grants and donations;

- ◆ Domestic loans;
- ◆ Credit-financing schemes
- ◆ Income derived from investments, privatized and development enterprises; and
- ◆ Inter-local government cooperation.

Several funding mechanisms may be needed by coastal municipalities and cities to enable them to undertake their management responsibilities under the LGC and Fisheries Code. A combination of revenue-generating mechanisms must be reviewed and undertaken by each municipality.

### ***Taxes, Fees, and Other Charges***

Local governments may apply taxes, fees, or other charges for the use of municipal waters. As in land use plans, municipal water use plans must be developed identifying zones for strict protection (no take zones), sustainable use (limited harvest), and multiple use zones. An appropriate system of taxes, fees, or other charges must be developed depending on the use designated for each zone. Primary uses of municipal waters that may serve as a source of revenue for CRM programs of the LGU may include: fishing, mariculture, and tourism. Few LGUs currently apply taxes, fees, or other charges to the use of municipal waters. This is due to the lack of an established CRM plan that zones municipal water use and a tax or fee structure that can apply the relevant economic rent.

### ***Internal Revenue Allotment***

Sec. 6, Art. VI of the constitution provides that local governments shall be entitled to a just share in national taxes. At present, local governments are entitled to 40 percent of internal revenue taxes (Sec. 284 of the LGC). Of the current 40 percent, all provinces and all cities are entitled to 23 percent each; all municipalities, 34 percent and all *barangays*, 20 percent. For particular LGUs, sharing is determined by applying this formula: 50 percent based on population, 25 percent on land area, and 25 percent equal sharing (Sec. 285 of the LGC).

*Land Area does not include Municipal Waters.* In the computation of the internal revenue allocation (IRA) of specific local governments (Sec. 285 of the LGC) and the creation and conversion of local governments (Sec. 7 of the LGC), land area is considered a standard of allocation and as a verifiable indicator. Land here clearly excludes waters.

Under *Batas Pambansa Blg. 337* (The Local Government Code of 1983), jurisdiction of local governments is defined by its territory. In the case of *Tan v. Comelec* (1423 SCRA 727) promulgated on 11 July 1986, the Supreme Court ruled that ‘territory’ refers to mass of land area and excludes municipal waters.

Thus, to include municipal waters in the computation of the IRA (and creation/conversion of local governments), the Code would have to be amended.

**Table 10. Responsibilities of LGUs in the management of coastal resources.**

Type of responsibility	LGU assigned
<b>Planning</b>	
<ul style="list-style-type: none"> <li>♦ Adopt a comprehensive land use plan</li> <li>♦ Reclassify land</li> <li>♦ Enact integrated zoning ordinances in consonance with approved comprehensive land use plan</li> <li>♦ Conduct cadastral, special, and isolated surveys</li> </ul>	♦ Municipality/City
<ul style="list-style-type: none"> <li>♦ Develop AFMPs</li> <li>♦ Consolidate with land use and zoning ordinances</li> </ul>	♦ Municipality/City
♦ Review AFMPs	♦ Province
♦ Formulate socioeconomic development plans of LGUs	♦ Local Development Council
<b>Protection/Conservation</b>	
♦ Recommend to DA-BFAR the inclusion of certain parts of municipal waters as fishery reserves	♦ Municipality/City
♦ Establish fishery refuge and sanctuaries in consultation with FARMCs	♦ Municipality/City
♦ Establish closed season in consultation with FARMCs	♦ Municipality/City
♦ Undertake reclassification of lands	♦ Municipality/Province
♦ Ensure conservation of mangroves	♦ <i>Sangguniang Bayan/Panlungsod</i>
<ul style="list-style-type: none"> <li>♦ Protect the environment and impose appropriate penalties for the following acts which endanger the environment: <ul style="list-style-type: none"> <li>➢ dynamite fishing and other forms of destructive fishing</li> <li>➢ illegal logging and smuggling of logs</li> <li>➢ smuggling of natural resources products and endangered species of flora and fauna</li> <li>➢ slash-and-burn farming</li> <li>➢ other activities which result in pollution, acceleration of eutrophication of rivers and lakes or of ecological imbalance</li> </ul> </li> </ul>	♦ Municipality/City
<ul style="list-style-type: none"> <li>♦ Provide for the establishment, maintenance, protection, and conservation of: <ul style="list-style-type: none"> <li>➢ communal forests and watersheds</li> <li>➢ tree parks</li> <li>➢ greenbelts</li> <li>➢ mangroves</li> </ul> </li> <li>♦ Implement other similar forest development projects subject to DENR guidelines</li> </ul>	♦ Municipality/City
♦ Adopt measures and safeguards against pollution and for the preservation of the natural ecosystem in the province	♦ <i>Sangguniang Panlalawigan</i>
<b>Legislation</b>	
<ul style="list-style-type: none"> <li>♦ Approve ordinances which shall ensure the efficient and effective delivery of the basic services and facilities as provided for under Sec. 17 of the LGC</li> <li>♦ Adopt measures and safeguards against pollution and for the preservation of the natural ecosystem in the province</li> </ul>	♦ Municipality/City/Province
♦ Enact appropriate ordinances in consultation with the FARMC and in accordance with the National Fisheries Policy	♦ LGU

*(continued)*

Table 10. (continued)

Type of responsibility	LGU assigned
♦ Review ordinances enacted by municipal/city government	♦ Province
♦ Enact a basic Municipal Fisheries Ordinance (MFO) delineating the boundaries of the municipal waters	♦ Municipality/City
♦ Provide the rules and regulations on licensing and permits and other fisheries activities	
♦ Modify or amend existing municipal fisheries ordinances to conform with the Fisheries Code	♦ Municipality/City
♦ Enact ordinance to authorize or permit small and medium commercial fishing vessels to operate within the 10.1 to 15-km area from the shoreline in municipal waters as defined, provided that all the following are met: <ul style="list-style-type: none"> <li>➢ No commercial fishing in municipal waters with depth less than 7 fathoms as certified by the appropriate agency;</li> <li>➢ Fishing activities utilizing methods and gears that are determined to be consistent with national policies set by the DA;</li> <li>➢ Prior consultation, through public hearing, with the M/CFARMC has been conducted;</li> <li>➢ Applicant vessel as well as the ship owner, employer, captain and crew have been certified by the appropriate agency as not having violated the Fisheries Code, environmental laws, and related laws</li> </ul>	♦ Municipality/City
♦ Enforce pollution control law and environmental laws	♦ <i>Barangay</i>
<b>Regulatory</b>	
♦ Issue auxiliary invoices for the transport of fish and fishery products except those caught in violation of provisions of the Fisheries Code or are declared as health hazards	♦ Municipality/City
♦ Make available to the Provincial Fishery Office (PFO) the monthly summary of auxiliary invoices	
♦ Design a color coding system for municipal waters, such color code system to include identifiable markings to be carried by the municipal fishing boats	♦ Municipality/City
♦ Enact ordinance to authorize or permit small and medium commercial fishing vessels to operate within the 10.1 to 15-km area from the shoreline in municipal waters as defined, provided that all the following are met: <ul style="list-style-type: none"> <li>➢ No commercial fishing in municipal waters with depth less than 7 fathoms as certified by the appropriate agency;</li> <li>➢ Fishing activities utilizing methods and gear that are determined to be consistent with national policies set by the DA;</li> <li>➢ Prior consultation, through public hearing, with the M/CFARMC has been conducted;</li> <li>➢ Applicant vessel as well as the ship owner, employer, captain and crew have been certified by the appropriate agency as not having violated the Fisheries Code, environmental laws, and related laws</li> </ul>	♦ Municipality/City

(continued)

Table 10. (continued)

Type of responsibility	LGU assigned
<ul style="list-style-type: none"> <li>Establish the boundaries of the allowable areas for commercial fishing</li> <li>Seek the assistance of the DA-BFAR and/or the NAMRIA in establishing the boundaries and isobath depth of waters</li> </ul>	<ul style="list-style-type: none"> <li>Municipality/City</li> </ul>
<ul style="list-style-type: none"> <li>Maintain a registry of municipal fishers, who are fishing or who may desire to fish in municipal waters, provided, that the FARMC shall submit to the LGU the list of priorities for its consideration</li> <li>Formulate the necessary mechanisms for inclusion or exclusion procedures; FARMCs may recommend such mechanisms</li> </ul>	<ul style="list-style-type: none"> <li>Municipality/City</li> </ul>
<ul style="list-style-type: none"> <li>Maintain a registry of municipal fishing vessels by type of gear and other boat particulars with the assistance of the FARMC</li> </ul>	<ul style="list-style-type: none"> <li>Municipality/City</li> </ul>
<ul style="list-style-type: none"> <li>Grant use of demarcated fishery areas to engage in fish capture, mariculture and/or fish farming</li> </ul>	<ul style="list-style-type: none"> <li>Municipality/City</li> </ul>
<ul style="list-style-type: none"> <li>Grant priority to resident municipal fishers and their organizations/cooperatives in the exploitation of municipal and demarcated fishery areas</li> </ul>	<ul style="list-style-type: none"> <li>Municipality/City</li> </ul>
<ul style="list-style-type: none"> <li>Grant demarcated fishery rights to fishery organizations/cooperatives for mariculture operation in specific areas identified by the DA</li> </ul>	<ul style="list-style-type: none"> <li>Municipality/City</li> </ul>
<ul style="list-style-type: none"> <li>Grant new concessions, licenses, permits, leases, and similar privileges for the establishment or operation of fish pens, fish cages, fish traps and other structures for the culture of fish and other fishery products within established zones only to municipal fishers and their organizations in consultation with FARMCs</li> </ul>	<ul style="list-style-type: none"> <li>Municipality/City</li> </ul>
<ul style="list-style-type: none"> <li>Issue permits for the operation of pearl farms</li> </ul>	<ul style="list-style-type: none"> <li>Municipality/City</li> </ul>
<ul style="list-style-type: none"> <li>Determine defined migration path of migratory fish species such as river mouths and estuaries in consultation with FARMCs</li> </ul>	<ul style="list-style-type: none"> <li>Municipality/City</li> </ul>
<ul style="list-style-type: none"> <li>Issue permit and collect fees for guano collection</li> <li>Issue permit to extract sand, gravel, and other quarry resources</li> </ul>	<ul style="list-style-type: none"> <li>Province</li> </ul>
<ul style="list-style-type: none"> <li>Regulate activities relative to the use of land, buildings, and structures within the municipality</li> </ul>	<ul style="list-style-type: none"> <li><i>Sangguniang Bayan</i></li> </ul>
<ul style="list-style-type: none"> <li>Implement solid waste disposal system or environmental management system and services or facilities related to general hygiene and sanitation</li> </ul>	<ul style="list-style-type: none"> <li>Municipality/City</li> </ul>
<b>Enforcement</b>	
<ul style="list-style-type: none"> <li>Enforce rules and regulations relating to agriculture and aquaculture</li> </ul>	<ul style="list-style-type: none"> <li>Municipality</li> </ul>
<ul style="list-style-type: none"> <li>Prosecute any violation of the provisions of applicable fishery laws</li> </ul>	<ul style="list-style-type: none"> <li><i>Barangay</i> Captain</li> </ul>
<ul style="list-style-type: none"> <li>Provide agricultural extension and on-site research services and facilities which include the:               <ul style="list-style-type: none"> <li>organization of farmers and fishers cooperatives and other collective organizations</li> <li>transfer of appropriate technology</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Municipal/City Mayor/Governor</li> </ul>
<ul style="list-style-type: none"> <li>Enforce all laws and ordinances relating to pollution control and protection of the environment</li> </ul>	<ul style="list-style-type: none"> <li><i>Sangguniang Bayan/Panlungsod/Panlalawigan</i></li> </ul>

(continued)



Table 10. (continued)

Type of responsibility	LGU assigned
♦ Adopt adequate measures to safeguard and conserve land, mineral, marine, forest and other resources	♦ Not indicated
♦ Protect the environment and impose appropriate penalties for the following acts which endanger the environment: <ul style="list-style-type: none"> <li>➢ dynamite fishing and other forms of destructive fishing</li> <li>➢ illegal logging and smuggling of logs</li> <li>➢ smuggling of natural resources products and of endangered species of flora and fauna</li> <li>➢ slash-and-burn farming</li> <li>➢ other activities which result in pollution, acceleration of eutrophication of rivers and lakes or of ecological imbalance</li> </ul>	♦ <i>Sangguniang Panlalawigan</i>
♦ Prescribe a criminal penalty therefor in accordance with the provisions of the Fisheries Code	♦ Province
♦ Enforce all fishery laws, rules, and regulations as well as valid fishery ordinances enacted by the municipality/city council	♦ Municipality/City
♦ Enforce forestry laws in community-based forestry areas	♦ Province/City
♦ Enforce small-scale mining laws, subject to policies of the DENR	♦ Province/City
♦ Verify and adjudicate conflicts on guano collection ♦ Verify and adjudicate conflicts on sand, gravel, and other quarry resources	♦ Province/City
♦ Enforce laws and regulations relating to pollution control and protection of the environment	♦ <i>Barangay</i>
<b><i>Power of Taxation and Revenue Generation</i></b>	
♦ Impose taxes on sand, gravel, and other quarry sources which include those located in littoral and coastal areas	♦ Province
♦ Define the geographic criteria for application of LGU taxes and levies based on the location of the transaction or the operation branch, outlet, or office	♦ All levels
♦ Formulate special levies on real property and the procedure for allocating the proceeds	♦ All levels
♦ Receive share from the internal revenue allocation (IRA)	♦ All levels
♦ Receive share of proceeds from government agencies or government owned and controlled corporations (GOCCs)	♦ All levels
♦ Create special funds or special accounts in the general fund	♦ All levels
<b><i>Extension/Technical Assistance</i></b>	
♦ Provide extension and on-site research services and facilities related to agriculture and fishery activities which include: <ul style="list-style-type: none"> <li>➢ dispersal of livestock, poultry, fingerlings, and other seeding materials for aquaculture</li> <li>➢ water and soil resource utilization and conservation projects</li> <li>➢ enforcement of fishery laws in municipal waters including the conservation of mangroves</li> </ul>	♦ Municipality/City

(continued)

Table 10. (continued)

Type of responsibility	LGU assigned
<ul style="list-style-type: none"> <li>♦ Provide agricultural extension and on-site services and facilities which include the:               <ul style="list-style-type: none"> <li>➢ organization of farmers and fishers cooperatives and other collective organizations</li> <li>➢ transfer of appropriate technology</li> </ul> </li> </ul>	♦ Province
<ul style="list-style-type: none"> <li>♦ Provide support to municipal fishers through appropriate technology and research, credit, production and marketing assistance and other services</li> </ul>	♦ Municipality/City
<ul style="list-style-type: none"> <li>♦ Prepare the SAFDZ</li> </ul>	♦ Municipality/City
<ul style="list-style-type: none"> <li>♦ Prepare the budget for the development, construction, operation, and maintenance of the Communal Irrigation Systems (CIS) and other types of irrigation systems</li> </ul>	♦ Not indicated
<ul style="list-style-type: none"> <li>♦ Strengthen the agricultural engineering groups</li> </ul>	♦ Not indicated
<ul style="list-style-type: none"> <li>♦ Coordinate with the DA-BFAR               <ul style="list-style-type: none"> <li>➢ To accelerate the establishment and training of information end-users in their respective jurisdictions</li> <li>➢ To identify farm-to-market roads</li> <li>➢ To identify and install water supply system in localities</li> <li>➢ To establish a standardized market system and use of sanitary market facilities and abattoirs</li> </ul> </li> </ul>	♦ Not indicated
<ul style="list-style-type: none"> <li>♦ Provide at least 10 percent of their maintenance and other operating expenses (MOOE) budget for the operation of provincial institutes</li> </ul>	♦ Not indicated
<ul style="list-style-type: none"> <li>♦ Deliver direct agriculture and fisheries extension services</li> </ul>	♦ Not indicated
<ul style="list-style-type: none"> <li>♦ Integrate the operations for the agricultural extension services</li> <li>♦ Undertake an annual evaluation of all municipal extension programs</li> </ul>	♦ Province
<ul style="list-style-type: none"> <li>♦ Provide integrated services and information to prospective enterprises under the one-stop-shop concept</li> </ul>	♦ Not indicated
<ul style="list-style-type: none"> <li>♦ Undertake investment and marketing missions</li> </ul>	♦ Not indicated
<ul style="list-style-type: none"> <li>♦ Coordinate training of workers</li> </ul>	♦ Not indicated
<b>Intergovernmental relations</b>	
<ul style="list-style-type: none"> <li>♦ Group together, consolidate, or coordinate efforts, services, and resources for commonly beneficial purposes</li> </ul>	♦ All levels
<ul style="list-style-type: none"> <li>♦ Group together and coordinate with each other to achieve the objectives of integrated fishery resource management</li> </ul>	♦ All levels
<ul style="list-style-type: none"> <li>♦ Share with the National Government the responsibility in the management and maintenance of ecological balance within the territorial jurisdiction</li> </ul>	♦ All levels
<ul style="list-style-type: none"> <li>♦ Formulate with other LGUs having jurisdiction over municipalities bordering bays, lakes, and gulfs, a unified MFO for an integrated resource management</li> </ul>	♦ Municipality/City
<b>Relations with POs and NGOs</b>	
<ul style="list-style-type: none"> <li>♦ Promote the establishment and operation of POs and NGOs</li> </ul>	♦ All levels
<ul style="list-style-type: none"> <li>♦ Enter into joint ventures and such other cooperative arrangements with POs and NGOs</li> </ul>	♦ All levels
<ul style="list-style-type: none"> <li>♦ Develop local enterprises</li> </ul>	

(continued)

Table 10. (continued)

Type of responsibility	LGU assigned
♦ Provide assistance, financial or otherwise, to POs and NGOs	♦ All levels
♦ Enact appropriate ordinances in consultation with the FARMC and in accordance with the National Fisheries Policy	♦ Municipality/City
♦ Determine, in consultation with the FARMCs, the license fees of fisheries activities in municipal waters	♦ Municipality/City
♦ Consult FARMCs in the enactment of municipal fisheries ordinance	♦ Municipality/City
♦ Conduct public hearing in consultation with FARMCs to present the following: <ul style="list-style-type: none"> <li>➢ map showing the area of municipal waters where small and medium commercial fishing vessels may be allowed to operate</li> <li>➢ type of fishing vessels and gear that may be allowed in such waters</li> <li>➢ draft MFO permitting/allowing such commercial fishing operations</li> </ul>	♦ Municipality/City
<b>Other Services</b>	
♦ Provide services and facilities related to general hygiene and sanitation, beautification, and solid waste collection	♦ <i>Barangay</i>

### ***Share in National Wealth***

***Definition of National Wealth; Share of Local Governments.*** The Implementing Rules of the LGC (Art. 386) define national wealth as all natural resources situated within the Philippine territorial jurisdiction including lands of public domain, waters, minerals, coal, petroleum, mineral oils, potential energy forces, gas and oil deposits, forest products, wildlife, flora and fauna, fishery and aquatic resources, and all quarry products.

***Share in Fishery Charges.*** LGUs shall, in addition to the IRA, have a share of 40 percent of the gross collection derived by the national government from the preceding fiscal year from (only) fishery charges (Sec. 290 and 291 of the LGC).

### ***Grants and Donation***

***Authority to Secure Grants.*** Sec. 23 of the LGC states that 'local chief executive may, upon authority of the *sanggunian*, negotiate and secure financial grants or donations in kind, in support of the basic services or facilities enumerated under Sec. 17 hereof, from local and foreign assistance agencies without necessity of securing clearance or approval therefor from any department, agency, or office of the national government or from any higher LGU.

Grants may be sourced from local and foreign sources to support water resource utilization and conservation projects and enforcement of fishery laws in municipal waters including the conservation of mangroves (Sec. 17b2I of the LGC). Sources of these funds are only recently becoming fully developed. These are not available to all LGUs.

***Domestic Loans***

*Authority to Contract Domestic Loans.* Sec. 297 of the LGC provides that an LGU may contract loans, credits, and other forms of indebtedness with any government or domestic private bank and other lending institution to finance the construction, installation, improvement, expansion, operation, or maintenance of public facilities, infrastructure facilities, and the implementation of other capital investment projects. Thus, domestic loans may be contracted by municipalities for infrastructure facilities and capital investment projects necessary in the management of coastal resources.

***Credit-Financing Schemes***

*Bond Flotation.* Sec. 299 of the LGC authorizes municipalities to issue bonds, debentures, securities, collaterals, notes, and other obligations to finance self-liquidating, income-producing development, or livelihood projects pursuant to the priorities established in the approved local development plan or the public investment program. Thus, this scheme may be availed of to finance self-liquidating, income-producing development, or livelihood projects on CRM. These projects must be incorporated in the municipal development plan and public investment program.

*Public Infrastructure Projects by Private Sector.* Sec. 302 of the LGC permits municipalities to enter into contracts with any duly prequalified individual contractor, for the financing, construction, operation, and maintenance of any financially viable infrastructure facilities, under the build-operate-transfer agreement including infrastructure facilities needed for the effective management of coastal resources.

***Income from Development Enterprises and Inter-local Government Cooperation***

*Development Enterprises.* Local governments may incorporate private development enterprises. These corporations (where income from investments may be derived) may be created to assume projects and programs on the management of coastal resources. These enterprises may be referred to as quasi-municipal corporation or those corporations created by local governments for a specific governmental or proprietary purpose. Even if there is no law specifically authorizing local governments to incorporate enterprises, local governments may still do so pursuant to their broad revenue-raising powers.

*Inter-local Government Cooperation.* LGUs may, through appropriate ordinances, group themselves, consolidate, or coordinate their efforts, services, and resources for purposes commonly beneficial to them (Sec. 33 of the LGC). In support of such undertakings, the LGUs involved may, upon approval by the *sanggunian* concerned after a public hearing conducted for the purposes, contribute funds, real estate, equipment, and other kinds of property and appoint or assign personnel under such terms and conditions as may be agreed upon by the participating local units through MOAs. Income may be derived from such undertakings. Participating/contracting municipalities may undertake joint projects on CRM and derive income therefrom.

The State/President may recognize such undertakings. In the case of Metro-Naga Development Council, an EO was issued by then President Fidel Ramos recognizing the Council. As a consequence of this recognition, national funds were transferred to finance projects of the Council. From a quasi-municipal corporation, Metro-Naga was transformed to a quasi-corporation (created by the State to perform a governmental purpose). Thus, adjoining coastal municipalities may enter into a collaborative undertaking then later seek recognition from the President. Legally, this may entitle LGUs to some form of national support.

### **COASTAL MANAGEMENT AS A BASIC SERVICE OF LOCAL GOVERNMENT**

Municipalities and cities serve as the primary unit of governance for coastal management in the Philippines. The breadth of responsibilities in coastal management as well as the panoply of national laws to support it indicates that CRM may well be regarded as a basic service of LGUs compatible with other services such as health, education, and waste management.

Coastal management is a process of planning, implementing, and monitoring sustainable coastal resource use through sound decision-making and collective action. Coastal management is a multi-phase process that begins with issue identification and baseline assessment; preparation and adoption of multi-year coastal management plan; and implementation through action plans, local legislation, regulation, law enforcement, and revenue generation (Figure 3). Annual program preparation and budgeting is based on monitoring and evaluating progress against the multi-year plan. Information management, education, and outreach play a central role in tracking progress and maintaining an active dialogue and communicating results to the local constituency. Indicative activities for each phase of the CRM process include consultations, planning, setting up of institutional support structures, and revenue generation (Table 11). These responsibilities are supported by national laws notable of which are the LGC, the Fisheries Code, and, to a lesser extent, the AFMA.

Readers interested in specific details about the coastal management process are encouraged to read *Guidebook No. 3: Coastal Resource Management Planning*.

### **LGU PARTNERS IN COASTAL MANAGEMENT**

The complex issues facing coastal areas require assistance and support from a variety of institutions and sectors. While LGUs are the front-line stewards of coastal resources, they also serve as the last safety net. The co-management approach establishes the basis for broad participation, resource sharing, collaboration, and allocation of responsibilities between NGAs, assisting organizations, and other sectors. This section describes key partners of local government in coastal management. Forming partnership and involving the community in the CRM process are described further in *Guidebook No. 4: Involving Communities in Coastal Management*.

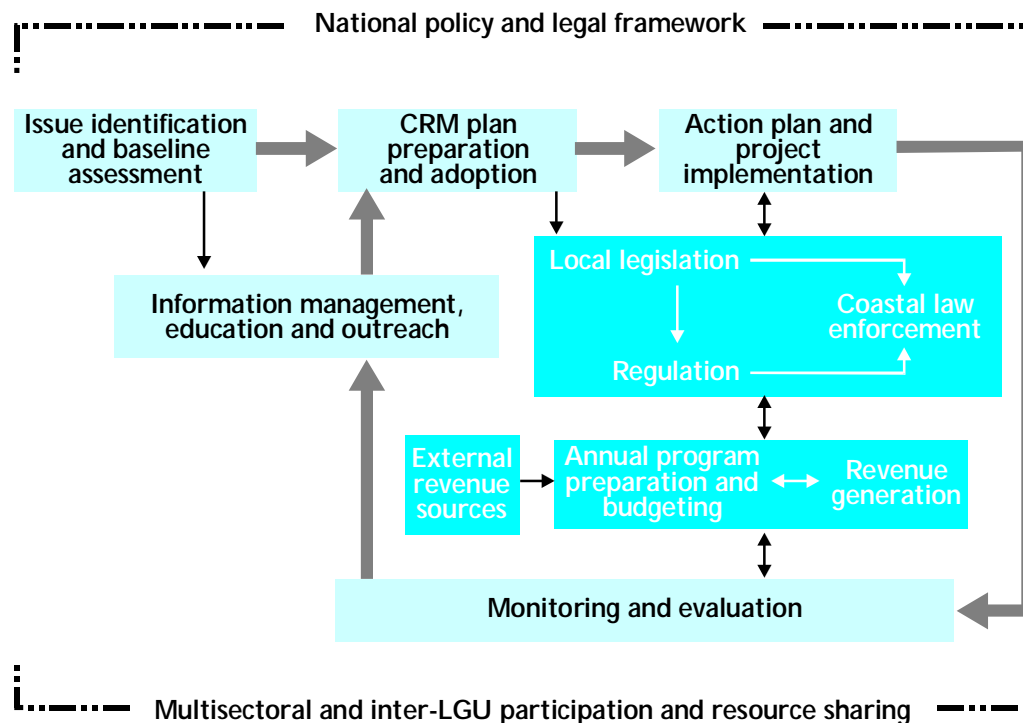


Figure 3. Coastal management: A basic service of local government.

Table 11. Benchmarks in the coastal management cycle.

<p><b><i>CRM plan preparation and adoption</i></b></p> <ul style="list-style-type: none"> <li>◆ <i>Barangay</i> and municipal FARMCs established and active</li> <li>◆ Multisectoral Technical Working Group established</li> <li>◆ CRM goals, objectives, and management strategies identified</li> <li>◆ Proposed water use zones delineated and mapped</li> <li>◆ Multi-year CRM plan drafted</li> <li>◆ Community consultations on draft management plan conducted</li> <li>◆ Proposed CRM plan presented in multisectoral forum</li> <li>◆ Multi-year CRM plan finalized and adopted</li> </ul>	<p><b><i>Annual program preparation and budgeting</i></b></p> <ul style="list-style-type: none"> <li>◆ Review of CRM plan implementation progress</li> <li>◆ Staffing requirements identified</li> <li>◆ Operation and maintenance needs identified</li> <li>◆ Capital outlay requirements identified</li> <li>◆ Special projects identified</li> <li>◆ Training, technical assistance, and outreach needs identified</li> <li>◆ Budget requirements programmed</li> </ul>
	<p><b><i>Local legislation</i></b></p> <ul style="list-style-type: none"> <li>◆ Ordinances enacted for CRM plan and implementation</li> </ul>

(continued)

Table 11. (continued)

<p><b><i>Issue identification and baseline assessment</i></b></p> <ul style="list-style-type: none"> <li>◆ Program preparation, staffing, and workplan developed</li> <li>◆ Existing information and data consolidated and analyzed</li> <li>◆ Field assessments and participatory coastal resource conducted</li> <li>◆ Municipal water boundaries mapped</li> <li>◆ Database and profile developed</li> <li>◆ Issues, problems, and opportunities identified and prioritized through community consultation</li> </ul>	<p><b><i>Coastal law enforcement</i></b></p> <ul style="list-style-type: none"> <li>◆ Coastal law enforcement units trained and operational</li> <li>◆ Ordinances enforced</li> <li>◆ Violators prosecuted</li> </ul>
<p><b><i>Monitoring and evaluation</i></b></p> <ul style="list-style-type: none"> <li>◆ Monitoring and evaluation team trained</li> <li>◆ Environment and ICM process and feedback to database and plan monitored</li> <li>◆ Performance evaluations conducted</li> <li>◆ Management capacity assessments conducted</li> <li>◆ Outcome evaluations conducted</li> </ul>	<p><b><i>Regulation</i></b></p> <ul style="list-style-type: none"> <li>◆ Registry of municipal fishers established</li> <li>◆ Permits and licenses issued for municipal water use consistent with CRM plan</li> </ul>
<p><b><i>Revenue generation</i></b></p> <ul style="list-style-type: none"> <li>◆ Taxes, fines, and fees collected from enterprise development, and municipal water use</li> </ul>	<p><b><i>Multisectoral and inter-LGU participation and resource sharing</i></b></p> <ul style="list-style-type: none"> <li>◆ NGA and provincial resources identified, coordinated, and tapped for CRM technical assistance, training, information management, information, education, and communication (IEC), and resource assessments to municipalities</li> <li>◆ Academic institutions and NGOs tapped for community organizing, training, technical assistance, research, and advocacy</li> <li>◆ Inter-LGU agreements established for bay and watershed management, coastal law enforcement, cost sharing, policy harmonization</li> <li>◆ Provincial database and geographic information management system established and updated</li> <li>◆ Annual CRM status reports and maps produced and disseminated by province to all municipalities</li> <li>◆ Provincial CRM Office and Resource Center established</li> <li>◆ IEC strategies coordinated and campaigns conducted</li> </ul>
<p><b><i>Action plan and project implementation</i></b></p> <ul style="list-style-type: none"> <li>◆ Action plans developed for CRM plan implementation</li> <li>◆ CRM best practices implemented including: marine sanctuaries established and functional; environment-friendly enterprises established; mangrove areas rehabilitated and managed under CBFMA and other regimes; and other management strategies</li> </ul>	

### Department of Environment and Natural Resources (DENR)

Coastal area management may be considered as an integral segment of the DENR's responsibilities. The agriculture and natural resources sectors were previously under a single department called the Department of Agriculture and Natural Resources. A series of legal reforms undertaken before the 1990s provided the DENR with significant mandates related to CRM, which prevail even after the fisheries and aquatic resources sector was placed under the responsibility of the BFAR (Table 12).

*Table 12. Major legislation that influenced the DENR's role in coastal area management.*

YEAR	LEGISLATION	FEATURE(S)
1974	PD 461	Divides the then Ministry of Agriculture and Natural Resources into the Ministry of Agriculture and Ministry of Natural Resources in 1974
1975	PD 705	Releases to the BFAR mangrove areas suitable for fishpond development; establishes mangrove areas needed for forest purposes
1975	PD 825	Penalizes improper disposal of garbage
1976	PD 979	The Marine Pollution Decree vests on the DENR-Environmental Management Bureau the authority to promulgate laws governing marine pollution
1978	PD 1586	Establishes the Philippine Environmental Impact Assessment under the administration of the DENR
1984	EO 967	Transfers the BFAR from the Ministry of Natural Resources (MNR) to the Ministry of Agriculture and Food. However, jurisdictional authority over management of marine environment, including coral reefs and other marine habitats, remains with the MNR
1987	EO 292	Mandates the DENR to exercise responsibility for the exploration and development of natural resources, including fisheries
1990	RA 6969	Enacts the Toxic Substances and Hazardous and Nuclear Waste Control Act
1991	RA 7076	Establishes a People's Small-scale Mining Program and places it under the supervision of the DENR
1992	RA 7586	NIPAS Law declares eight categories of protected areas, including protected seascapes under the administration of the DENR-Protected Areas and Wildlife Bureau (PAWB)
1992	DAO 30	Defines scope of devolved DENR functions to LGUs
1993	DAO 19	Establishes the Coastal Environment Program (CEP)
1995	RA 7942	Approves the Philippine Mining Act
1995	EO 263	Adopts community-based forest management (CBFM) as the National Strategy to ensure the sustainable development of the country's forestland resources and provides mechanisms for its implementation

To pursue its mandates, the DENR has been involved in policy issuances and programs that focus on the management of mangroves and associated terrestrial and aquatic flora and fauna within the marine zone. It has not directly involved itself, however, in fishery regulatory, licensing, research, and enforcement functions, which are presently being exercised by the BFAR.



In 1993, the Department began addressing its marine concerns by including seascapes in the category of protected areas under the NIPAS Act, which it was tasked to implement. It also launched its Coastal Environment Program (CEP) through DENR AO No. 19, s1993, which aimed to uplift the socioeconomic conditions of the country's coastal population through the protection of the environment and the implementation of strategic interventions on resource assessment, community organizing, information and education campaigns, and the identification and establishment of impact sites and seascapes.

Despite the enactment of the LGC, the DENR retained many environmental management functions relating to forest management in forestlands not devolved to the LGUs; mines and geosciences management which do not fall under the purview of the Small-scale Mining Act; environmental management, specifically the implementation of the EIA System for certain businesses and projects; management of all protected areas, including those under the NIPAS; land management; and ecosystems research.

The functions related to CRM which have been devolved by the DENR to the LGUs include:

- ◆ Implementation of community-based forestry projects: integrated social forestry projects, new regular reforestation projects, forestland management agreements, and other community forestry projects;
- ◆ Management and control of communal forests with an area not exceeding 50 km<sup>2</sup>;
- ◆ Management, protection, rehabilitation, and maintenance of small watershed areas as identified by the DENR;
- ◆ Enforcement of forestry laws in community-based forestry projects and communal forests;
- ◆ Establishment, protection, and maintenance of tree parks, greenbelt areas, and other tourist attractions in areas identified by the DENR;
- ◆ Implementation of the Rehabilitation in Conservation Hotspots Project and the Conservation of Rare and Endangered Species Project in areas identified by the DENR;
- ◆ Enforcement of pollution control laws, including the apprehension of smoke belching vehicles;
- ◆ Solid waste disposal and other environmental management systems related to hygiene and sanitation; and
- ◆ Implementation of cease-and-desist orders issued by the Pollution Adjudication Board.

#### **DA-Bureau of Fisheries and Aquatic Resources (BFAR)**

Historically, the BFAR has been the government institution mainly responsible for the regulation and management of all fishery resources of the Philippines (Table 13).

*Table 13. Key legislation that influenced BFAR's role in fisheries management in the last 30 years.*

YEAR	LEGISLATION	FEATURE(S)
1963	RA 3512	Creates the Philippine Fisheries Commission
1975	PD 704	Includes development and management of the country's fisheries in BFAR's mandates
1984	EO 967	Transfers administration of the BFAR from the Department of Natural Resources (DNR) to the Ministry of Agriculture and Food (MAF) (some functions, such as those related to the management of coastal and marine habitats remain with the DNR)
1986	EO 116	Relegates the BFAR to the food production group of the DA; the BFAR becomes a staff bureau Abolishes BFAR's administrative, regulatory, and enforcement functions Abolishes BFAR's field units
1987	EO 292	Assigns to both the DA and DENR fisheries-related functions
1991	RA 7160	Devolves specific fishery management functions (regulatory and enforcement)
1997	RA 8435	Enacts the AFMA
1998	RA 8550	Reconstitutes the BFAR as a line bureau of the DA

The passage of the Fisheries Code of 1998 attempted to address problems and issues in the management of fisheries and in the institutional support for the resource, brought about by years of neglect, and reconstituted the BFAR as a line bureau under the DA with the following mandates:

- ◆ Prepare and implement a Comprehensive National Fisheries Industry Development Plan;
- ◆ Issue licenses for the operation of commercial fishing vessels;
- ◆ Issue identification cards free of charge to fish workers engaged in commercial fishing;
- ◆ Monitor and review joint fishing agreements between Filipino citizens and foreigners who conduct fishing activities in international waters, and ensure that such agreements are not contrary to Philippine commitment under international treaties and convention on fishing in the high seas;
- ◆ Formulate and implement a Comprehensive Fishery Research and Development Program;
- ◆ Establish and maintain a Comprehensive Fishery Information System;
- ◆ Provide extensive development support services in all aspects of fisheries production, processing, and marketing;
- ◆ Provide advisory services and technical assistance on the improvement of quality of fish from the time it is caught;
- ◆ Coordinate efforts relating to fishery production undertaken by the primary fishery producers, LGUs, FARMCs, and fishery organizations/cooperatives;
- ◆ Advise and coordinate with LGUs on the maintenance of proper sanitation and hygienic practices in fish markets and fish landing areas;
- ◆ Establish a corps of specialists in collaboration with the Department of National Defense (DND), DILG, and DFA for the efficient monitoring, control, and surveillance of fishing

activities within Philippine territorial waters and provide the necessary facilities, equipment, and training;

- ◆ Implement an inspection system for import and export of fishery/aquatic products and fish processing establishments consistent with international standards to ensure product quality and safety;
- ◆ Coordinate with LGUs and other concerned agencies for the establishment of productivity enhancing and market development program in fishing communities to enable women to engage in other fisheries/economic activities and contribute significantly to development efforts;
- ◆ Enforce all laws; formulate and enforce all rules and regulations governing the conservation and management of fishery resources, except in municipal waters; and settle conflicts of resource use and allocation in consultation with the national FARMC, LGUs, and local FARMCs;
- ◆ Develop value-added fishery products for domestic consumption and export;
- ◆ Recommend measures for the protection/enhancement of the fishery industries;
- ◆ Assist the LGUs in developing their technical capability in the development, management, regulation, conservation, and protection of fishery resources;
- ◆ Formulate rules and regulations for the conservation and management of straddling and highly migratory fish stocks; and
- ◆ Perform other related functions, which shall promote the development, conservation, management, protection, and utilization of fisheries and aquatic resources.

### **Department of the Interior and Local Government (DILG)**

The DILG was reorganized by virtue of RA 6975 that created two basic sectors within the department - the Local Government Sector and the Interior or Public Safety Sector.

The Local Government Sector, which is responsible for planning, implementing, monitoring, and evaluating plans, programs, and policies pertaining to local autonomy, decentralization, and local governance consists of the Bureau of Local Government Development (BLGD), Bureau of Local Government Supervision (BLGS), National *Barangay* Operations Office (NBOO), Local Government Academy (LGA), and staff bureaus. The BLGD is in charge of establishing and prescribing policies, guidelines, systems, and approaches to local governments, and in evaluating local development policies to enhance the participation of local governments in planning and implementation. It also provides support services to the Oversight Committee of the LGC in its sustained implementation. The BLGS, on the other hand, is the principal staff bureau that formulates policies pertaining to general supervision over LGUs and provides assistance in the preparation of national legislation affecting local governments.

The Interior or Public Safety Sector, which is composed of the National Police Commission, the PNP, the Bureau of Fire Protection, and the Bureau of Jail Management and Penology is

responsible for planning and implementing the Department's programs on peace and order and public safety.

RA 6975, as amended by RA 8551, also created the PNP-MARIG, a maritime police unit within the PNP, which has been vested with the authority to perform all police functions "over Philippine territorial waters and rivers, coastal areas from the shore line to one mile inland to include ports and harbors and small islands of two miles in length or diameter with less than 1,000 population." Sec. 24 of RA 6975 also clarified that after an 18-month transition period, the PNP-MARIG will absorb all police functions of the PCG. This transition period ended in June 1992.

Although the extent of the PNP-MARIG's jurisdiction over the entire Philippine territorial waters remains unqualified, there is general acceptance of the delineation of its jurisdiction with that of the PCG inasmuch as the former is under the DILG while the latter is now under the Department of Transportation and Communication (DOTC).

#### **Department of Transportation and Communication (DOTC)**

The DOTC's involvement in CRM is through the Maritime Industry Authority (MARINA), the PPA, and the PCG. Under EO 125, the DOTC "is the primary policy, planning, programming, coordinating, implementing, regulating, and administrative entity of the executive branch of government in the promotion, development, and regulation of dependable and coordinated networks of transportation and communications systems." In practice, the DOTC undertakes policy formulation, infrastructure development, and regulatory functions.

The MARINA is responsible for the promotion and development of the maritime industry, regulation of shipping, and maritime safety regulatory functions in collaboration with the PCG. The MARINA used to be involved in the registration and inspection of commercial fishing boats, but this is now performed solely by the PCG. The MARINA's role is limited to the issuance of certificate of Philippine registry to commercial fishing boats operating in the country. Unlike the PCG, however, the MARINA does not have any regulatory mandate over municipal fishing boats.

The PPA is responsible for the development of ports and the provision and supervision, control, operation, and maintenance of port facilities and services. The PPA also regulates the establishment of private ports.

The PCG was turned over to the DOTC in 1998 by virtue of EO 477. The mandates of the PCG are to: (1) promote safety at sea, (2) promote maritime security as an armed force, (3) assist in the implementation of laws in the high seas and waters under Philippine jurisdiction, and (4) safeguard marine resources and environment. In the enforcement of anti-pollution laws, the PCG is specifically tasked to: (1) prevent, mitigate, and control marine pollution through a

system of ship-based pollution monitoring, and (2) enforce applicable environmental laws in the seas. The PCG is also responsible for preparing and responding to oil spill contingencies and implementation of the anti-marine pollution decree. It is important to note that both the PPA and the MARINA rely on the PCG to enforce regulations and ensure compliance to maritime safety requirements.

### **Department of Science and Technology (DOST) - Philippine Council for Aquatic and Marine Research and Development (PCAMRD)**

The PCAMRD began as a unit under the Philippine Council for Agriculture, Forestry and Natural Resources Research and Development (PCARRD), which was attached to the DA. During the 1987 reorganization, the PCAMRD was placed under the DOST as one of its sectoral planning councils through EO 128 and was given the following broad mandates:

- ◆ Monitor aquatic and marine research and development projects;
- ◆ Formulate strategies, policies, plans, programs, and projects for aquatic and marine science technology; and
- ◆ Generate external funds.

In carrying out its mandate, the PCAMRD provides research and development directions for fisheries and aquatic resources through its 5-year NARRDS (National Aquatic Resources Research Development Systems). NARRDS consists of a network of research and development institutions, state colleges and universities, and regional research stations of the DA and DENR; it directly overlaps with the DA-FSP's research and extension component, which is being implemented by the Bureau of Agricultural Research.

### **Assisting Organizations**

Assisting organizations include NGOs, academic institutions, POs, and civic groups. The government recognizes the roles of NGOs and POs in catalyzing development in the rural areas, particularly in securing people participation in the decision-making process and amplifying the community's role in environmental protection. Most of the more than 17,000 NGOs listed with the Securities and Exchange Commission have evolved in the pursuit of institutional strengthening of local governments, provision of social services, and policy advocacy. Their operations are normally characterized by special goals on: (1) social reforms, (2) participatory management, (3) community development for alternative livelihood and empowerment, and (4) basic services delivery. The National Economic and Development Authority encourages NGAs to involve NGOs in development projects, in recognition of the fact that NGOs can better deliver to communities front-line services which a government agency is normally constrained to accomplish. The LGC also encourages LGUs to involve NGOs (Sec. 34 to 36).

The important roles played by NGOs were demonstrated by their involvement in the Fisheries Sector Program's CRM program. This generated some important lessons:

- ◆ NGOs are most effective in CRM education, community organization (CO), and advocacy work;
- ◆ Local NGOs have practical knowledge of local needs and capabilities valuable to CRM;
- ◆ Lack of involvement of an LGU in the selection process for NGOs may give rise to animosity between the LGU and the NGO, with the former seeking to take over the work of the latter especially where a significant amount of funding is involved in the CO contract;
- ◆ Some flexibility should be allowed for the NGO to be able to participate in the planning stage for CO work; and
- ◆ It is advisable to have an NGO partner that has the capability to provide counterpart inputs to the CO work in government-funded projects.

#### **EMERGING INSTITUTIONAL ARRANGEMENTS FOR COASTAL MANAGEMENT**

Institutional arrangements for coastal management are emerging as four basic categories:

- ◆ Intra-LGU arrangements focus on the relationship between municipal and *barangay* levels of government, POs, and other coastal stakeholders.
- ◆ Inter-LGU arrangements are established between municipal and provincial LGUs and between upland or adjacent LGUs to preserve critical ecosystem functions.
- ◆ Institutional arrangements between local and national government agencies provide for resource sharing and technical assistance.
- ◆ Public-private sector partnerships are materializing as viable joint ventures for a wide range of environmental infrastructure and services.

Community-based approaches that directly involve coastal stakeholders and assisting organizations are of paramount importance in the devolved functions, as are other co-management mechanisms with neighboring local governments, national governments, and other sectors. Figure 4 shows emerging public and private sector coastal management functions in the Philippines.

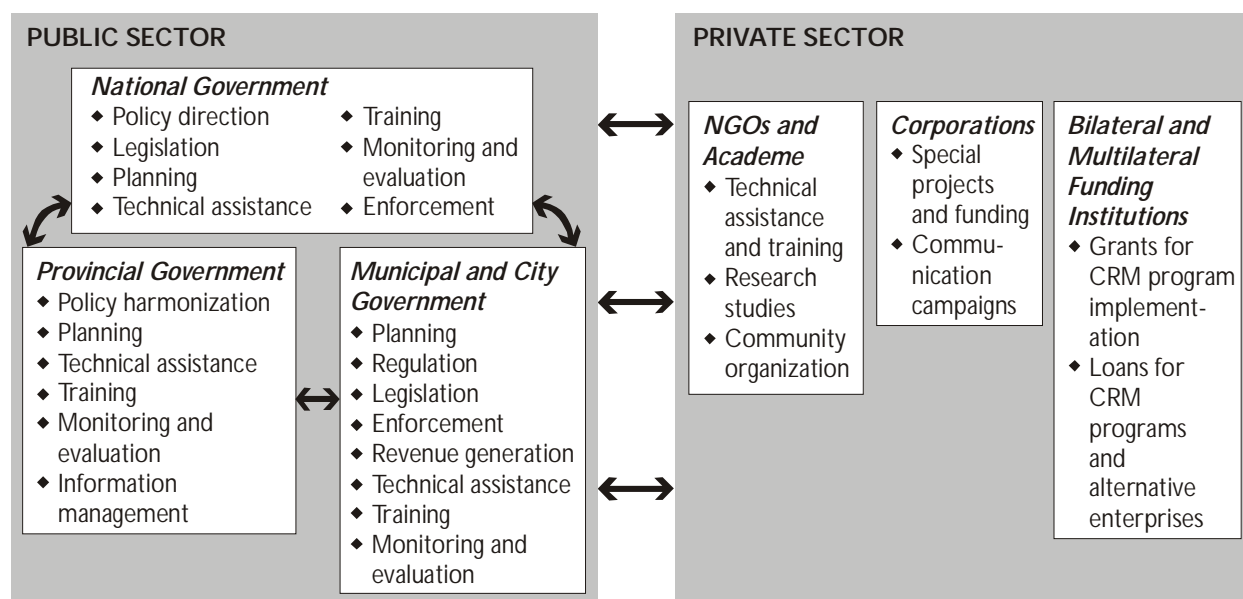


Figure 4. Emerging institutional arrangements and responsibilities for coastal management in the Philippines.

# chapter 5

## ***Coastal management problem networks***

---

The solutions to problems encountered in coastal areas must be sought within the context of the national legal and jurisdictional framework for coastal management. Without consulting and adhering to this framework, proposed interventions may be illegal or may create as many problems as they are designed to solve. In this chapter, intervention mechanisms for some of the most common issues in coastal management are classified by legal mandate and jurisdictional responsibility in a “problem-solution” approach.

Five major CRM issues are analyzed here: open access, habitat destruction, resource enhancement, law enforcement, and development activities. The open access issue branches out to a selection of management interventions, i.e., access limitation mechanisms. The network on habitat destruction does not offer solutions per se but rather points out the causes. In effect, the approach taken here is prevention and/or mitigation. The person or agency responsible for certain types of interventions and the legal basis for such is provided for all CRM problems.

As a guidance tool, the problem networks respond to three critical questions:

1. What is the major CRM issue to be addressed?
2. Who may address such issue?
3. What is the legal basis for this?

Details on planning for and implementing interventions are also discussed in other guidebooks in the series.

### **OPEN ACCESS**

*What is open access?* An open access situation exists when the resource, usually state-owned or public property, is available for all to utilize. Any individual has the right to use such resource without fear of present or future exclusion. Unless property regimes exist, a marine resource is often an open access resource. In the past, forests (including mangroves) were also open access resources; today, enough policies have been instituted to regulate their use.

*What happens to the resource when open access exists?* Resource degradation and dissipation of economic rent are very often the end results of an open access situation. In a fishery, open access



leads to a sub-optimal number of fishers chasing fewer and fewer fish. The increasing pressure to catch more fish is aggravated by the use of deleterious fishing gear, cyanide, and dynamite fishing, causing damage not just to the fish but also to the habitats that support them. The open access condition is worsened by the absence of alternative employment conditions in the other economic sectors. Meanwhile, economic rent dissipation occurs when there is overcapitalization and oversupply of labor in the fishery resource.

*How is an open access situation managed?* The need to regulate fishery and other coastal resource uses becomes essential not just in determining the numbers of participants but also in the intensity of resource use. Several mechanisms are analyzed to respond to one or both of these problems. These include: 1) issuance of license and permits; 2) taxation; 3) lease or rental fees; 4) restrictions; and 5) assignment of property or preferential rights (Figures 5-10). Auxiliary invoices are issued for monitoring the flow and transport of fishery products; they do not have an exclusionary effect, except for those who are unwilling to pay the fee (based on volume of shipment). Nevertheless, invoices are lumped together with licenses and permits because of similarity in their design.

The problem network indicates that limitations on resource use, like the granting of licenses and permits for fisheries, are within the jurisdiction of the LGU (Figure 6). The LGC stresses the preferential treatment for cooperatives of marginal fishers (Sec. 149); however, exempting such groups from paying fees for use of the resource can be inefficient and inappropriate. Taxes and lease are fixed costs imposed on the “resource user” and can be considered as a disincentive (Figures 7-8). An innovation introduced by RA 8550 is for licenses, permits, and lease rates to satisfy the criteria of economic rent. These mechanisms are considered economic disincentives to entry; however, legal interpretations might differ slightly.

Access may also be limited to restricting resource use (Figure 9). Restrictions may be spatial, temporal, or technological in nature. Area restrictions prohibit certain types of activities within an area. For fishing, the area restriction is essentially the boundaries of municipal waters (as defined by law) and, within this zone, a demarcated fishing area. RA 8550 introduces a further delineation within municipal waters, i.e., the area from 10.1 to 15 km, wherein commercial fishing vessels (up to 150 GT) MAY be allowed to operate. The problem network shows the LGU’s supremacy in determining this. Temporal restrictions, such as closed seasons, have been used mainly to rejuvenate the resource. In most cases, a combination of restrictions (e.g., area and gear) is used. For example, RA 8550 now prohibits the use of active gear in municipal waters, bays, and overfished areas. On the other hand, destructive gear such as *muro-ami* are banned in all areas and at all times.

The assignment of property or preferential rights confers to a particular group (which may theoretically include a private individual) the management, and sometimes, exclusive use of certain or entire fishing zones (Figure 10). A derivative of property rights is preferential treatment, which limits, to a certain extent, the participation of outsiders in a process. In both cases, the exclusion of individuals becomes possible and resource stewards can develop regulation. The assignment of quasi-property rights is supported by the Fisheries Code in providing for mechanisms to limit the use of fishing areas (within a certain municipality or city's jurisdiction) to non-resident fishers.

The conferment of property rights to selected segments of communities was also realized by the DENR via the Mangrove Stewardship Agreement (DAO 3, s1991) and recently, the community-based forest management agreement (CBFMA) (DAO 96-29). In the same manner, small-scale mining cooperatives covered by RA 7076 are given preferential rights to apply for a small-scale mining agreement for a maximum aggregate area of 25 percent within declared mineral reservations (Sec. 22, DAO 23, s1991).

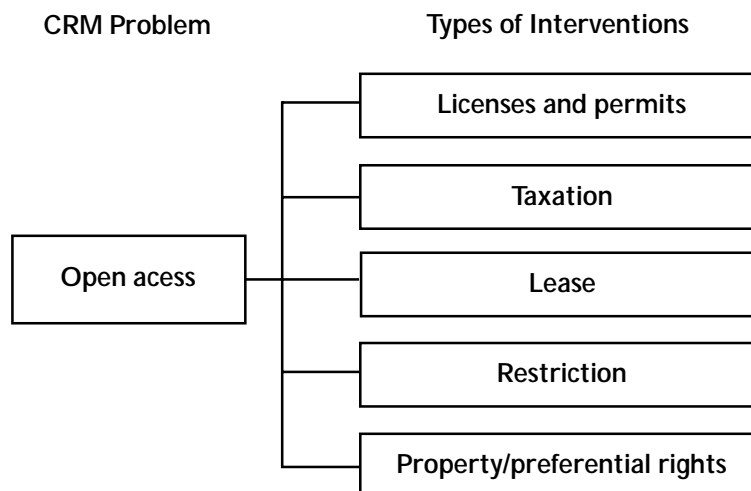
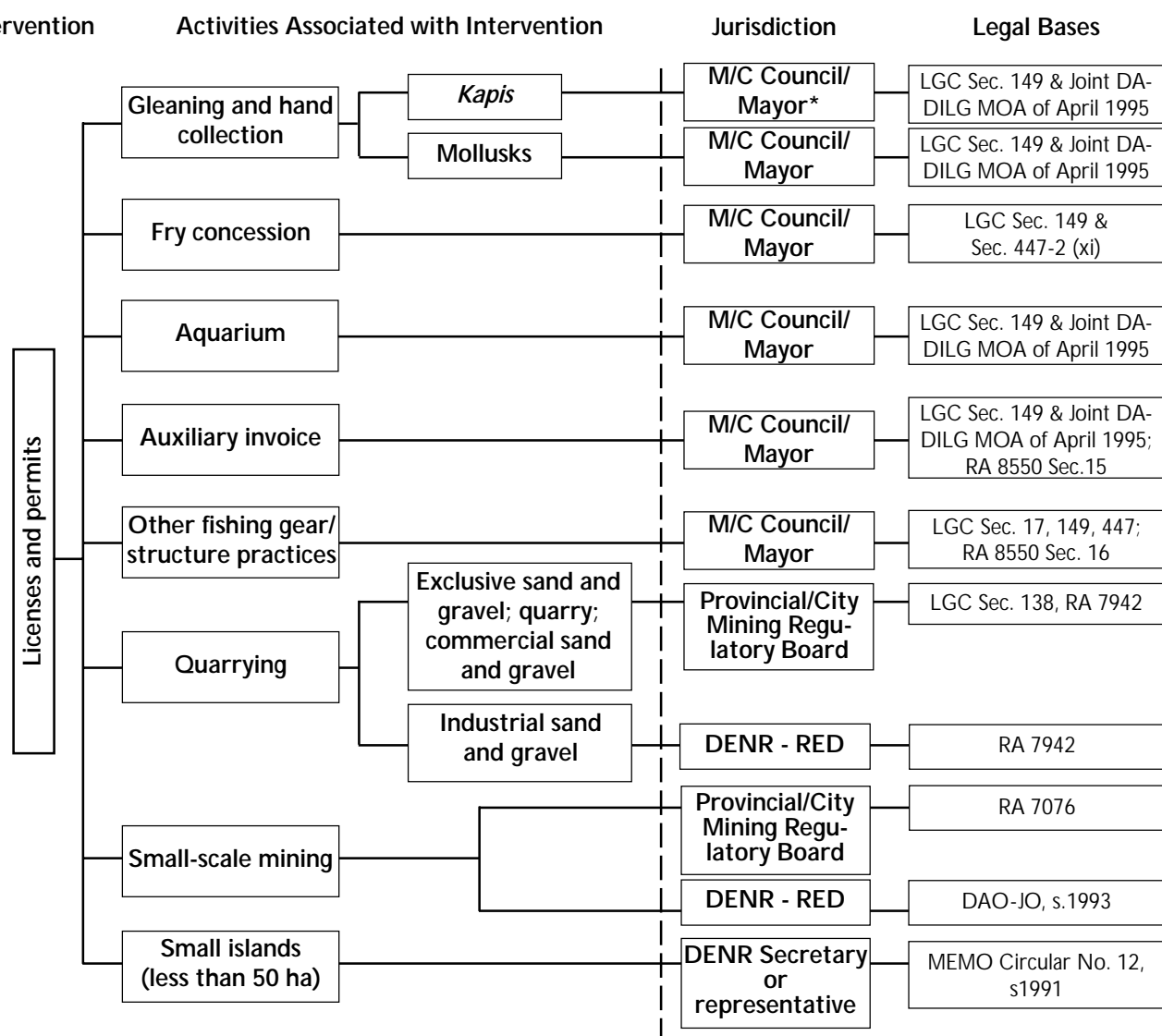


Figure 5. CRM problem network no. 1: Open access.



\*The schedule of licenses and permits is embodied in a municipal/city ordinance enacted by the Municipal/City Council and approved by the Mayor. The Mayor and his/her representatives issue licenses and permits in accordance with the ordinance.

Figure 6. CRM problem network no. 1: Open access - Licenses and permits.

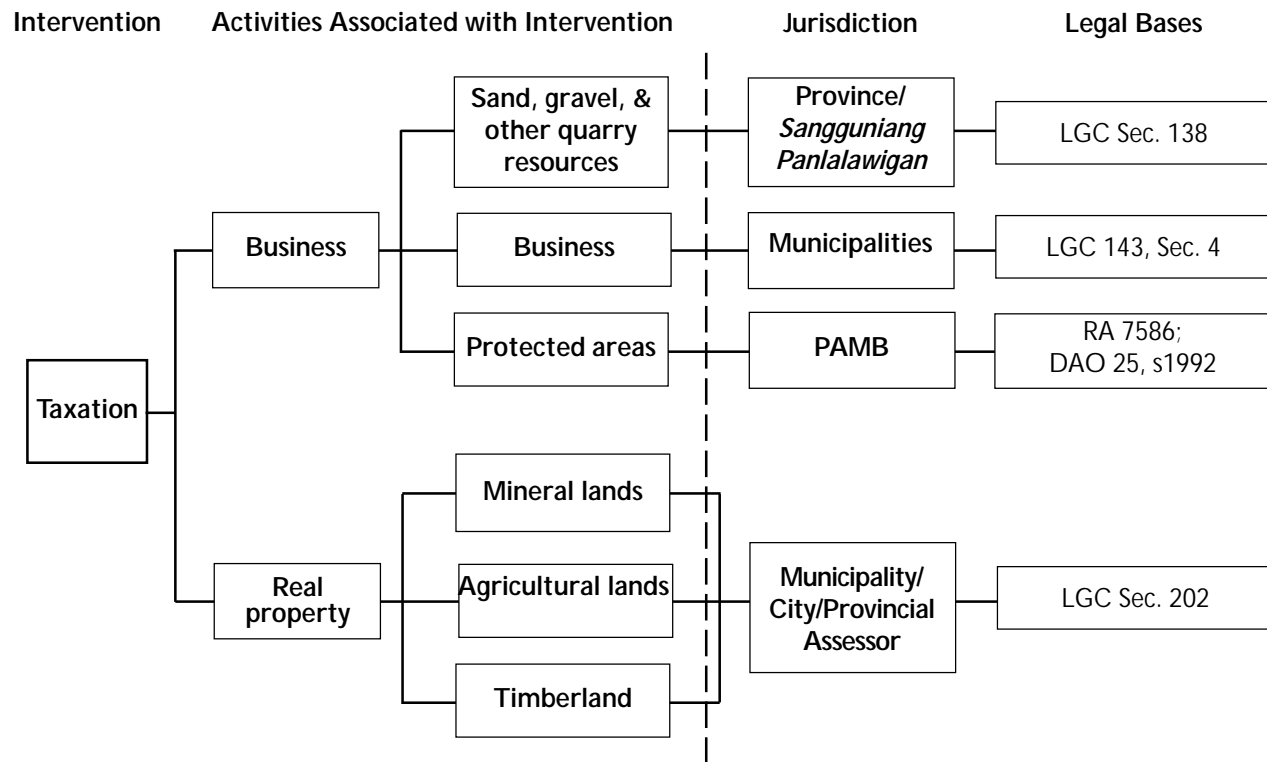


Figure 7. CRM problem network no. 1: Open access - Taxation.

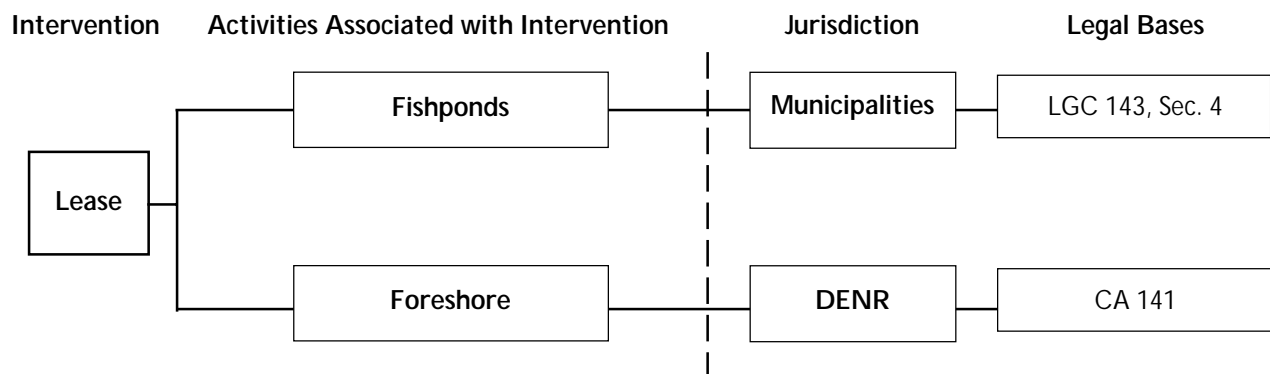


Figure 8. CRM problem network no. 1: Open access - Lease.

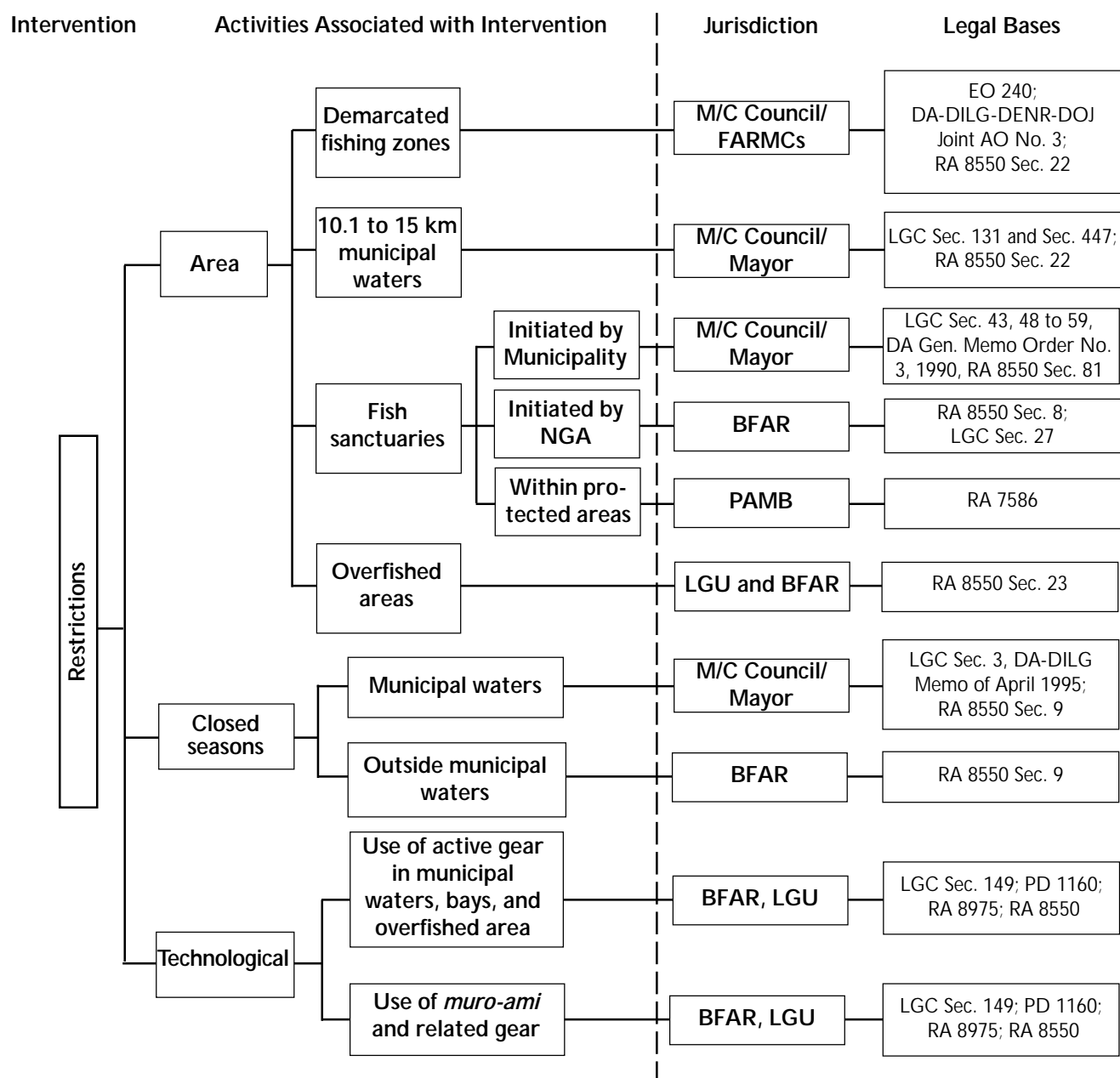


Figure 9. CRM problem network no. 1: Open access - Restrictions.

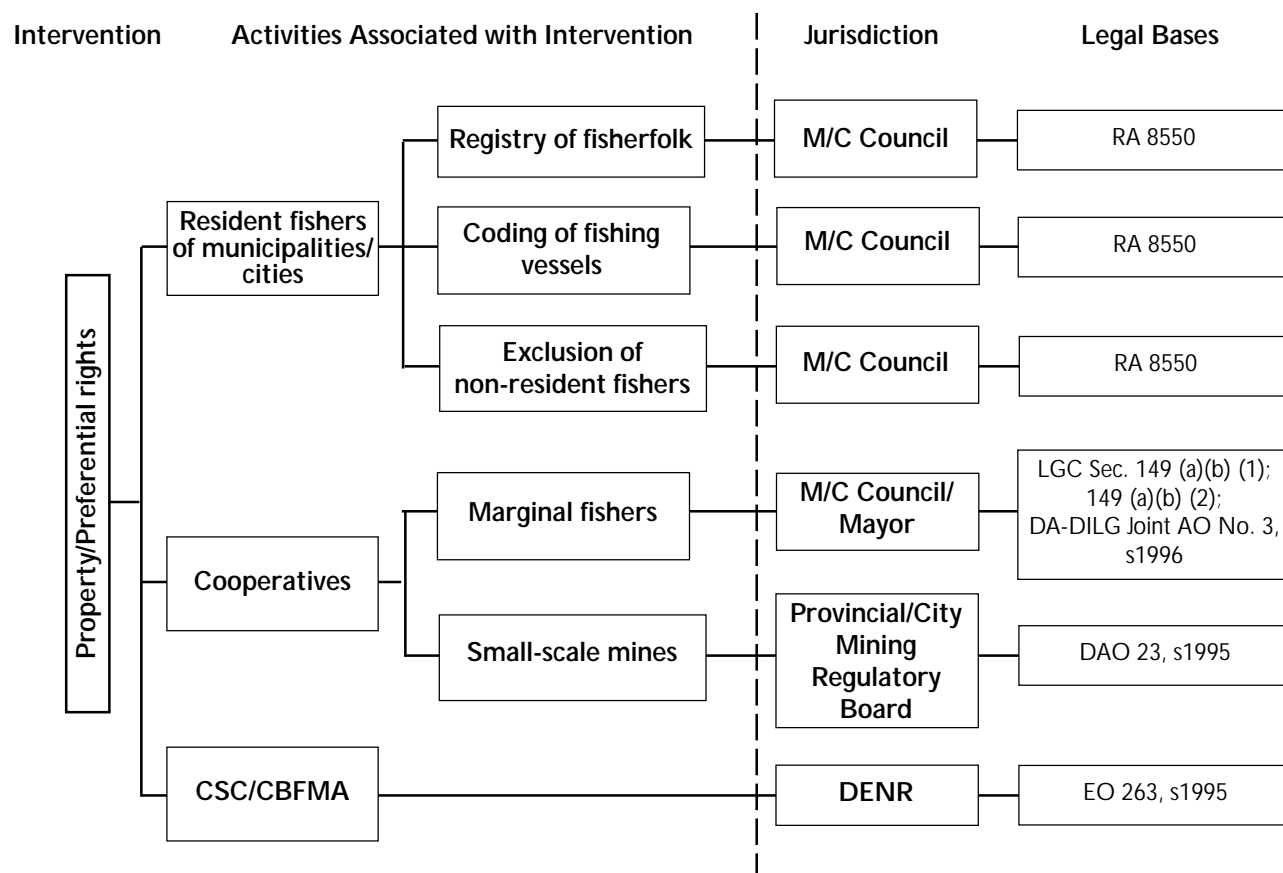


Figure 10. CRM problem network no. 1: Open access - Property rights.

## HABITAT DESTRUCTION

Habitat destruction is an important CRM issue not only because of the loss of goods and services derived from coastal ecosystems but also because of the partial or total impairment of important ecological functions (Figures 11-13). Mangrove and coral reef systems are considered here because of their vulnerability to man-made threats and the numerous economic and ecological benefits attributed to them. Mangroves are sources of fishery and forestry products; they are also important nursery grounds for juveniles of fish. Coral reefs provide habitats to fishery resources and protection against tidal surges and storms as well as enhance the aquatic environment.

Two classes of factors causing destruction are evaluated here: (1) direct factors, i.e., activities which directly and/or immediately cause partial or total damage and (2) indirect factors or externalities which are activities external to the coastal system but which nevertheless have a long-term, and potentially irreversible, impact on these systems. The direct factors considered here (Figure 12) include coral mining which is an extractive activity causing the actual removal of corals

from their habitat; blast fishing which results in immediate reef destruction; and cyanide fishing which while targeting reef fish, eventually causes the destruction of coral polyps. Deleterious methods of fishing, such as *muro-ami* and *pa-aling*, utilize similar procedures, like driving and scaring fish into the nets by using lines or pounding on corals. Problems pertaining to coral reef destruction can be addressed by the LGUs, BFAR, law enforcement agencies and their deputies through the enforcement of RA 8550.

Conversion of mangroves to fishponds (or other uses, such as reclamation areas) completely obliterates the ecological and economic attributes of mangroves. The jurisdiction for mangrove use and management is lodged with the BFAR and DENR. The BFAR retains its role in the issuance of lease agreements (as per RA 8550) and monitoring of fishpond productivity in areas released for fishpond purposes while the DENR is involved in the general area of mangrove management including reforestation. The DENR also requires fishponds to submit ECCs. Cutting of mangroves outside of CBFMA areas, which is prohibited under RA 7161, is within the jurisdiction of LGUs and the DENR. Cutting within CBFMA areas is allowed (for as long as it conforms to the agreed management plan); however, the jurisdiction is passed on to the relevant PO as monitored by the DENR.

Pollution and siltation are problems caused by terrestrial and upland activities such as mining, forestry, and agriculture.

Pollution from oil spills, mine tailings, and hazardous wastes are not within the jurisdiction of the LGU (Figure 13). Siltation problems are within the jurisdiction of the LGU, specifically the province (LGC, Sec. 17), and the *barangay* (LGC Sec. 389(a)(9)), PD 1160); where the cause has been ascertained to come from mining operations, the DENR-Mines and Geosciences Bureau (MGB) may issue cease-and-desist orders while the DENR-EMB may require the permit-holder to remedy the practice that violates anti-pollution laws and regulations. *Guidebook 7: Managing Impacts of Development in the Coastal Zone* highlights the importance of inter-LGU collaboration to address transboundary problems such as pollution.

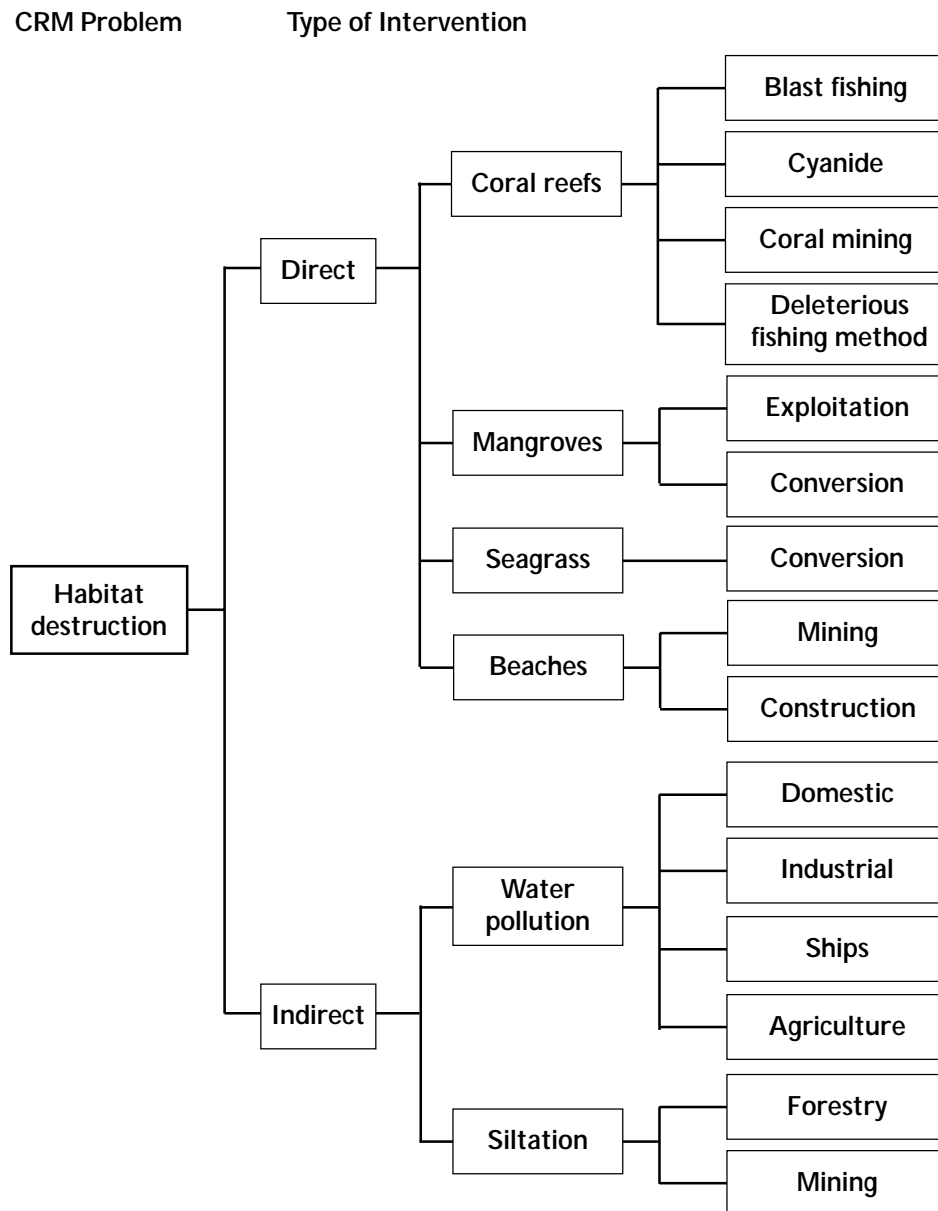


Figure 11. CRM problem network no. 2: Habitat destruction.



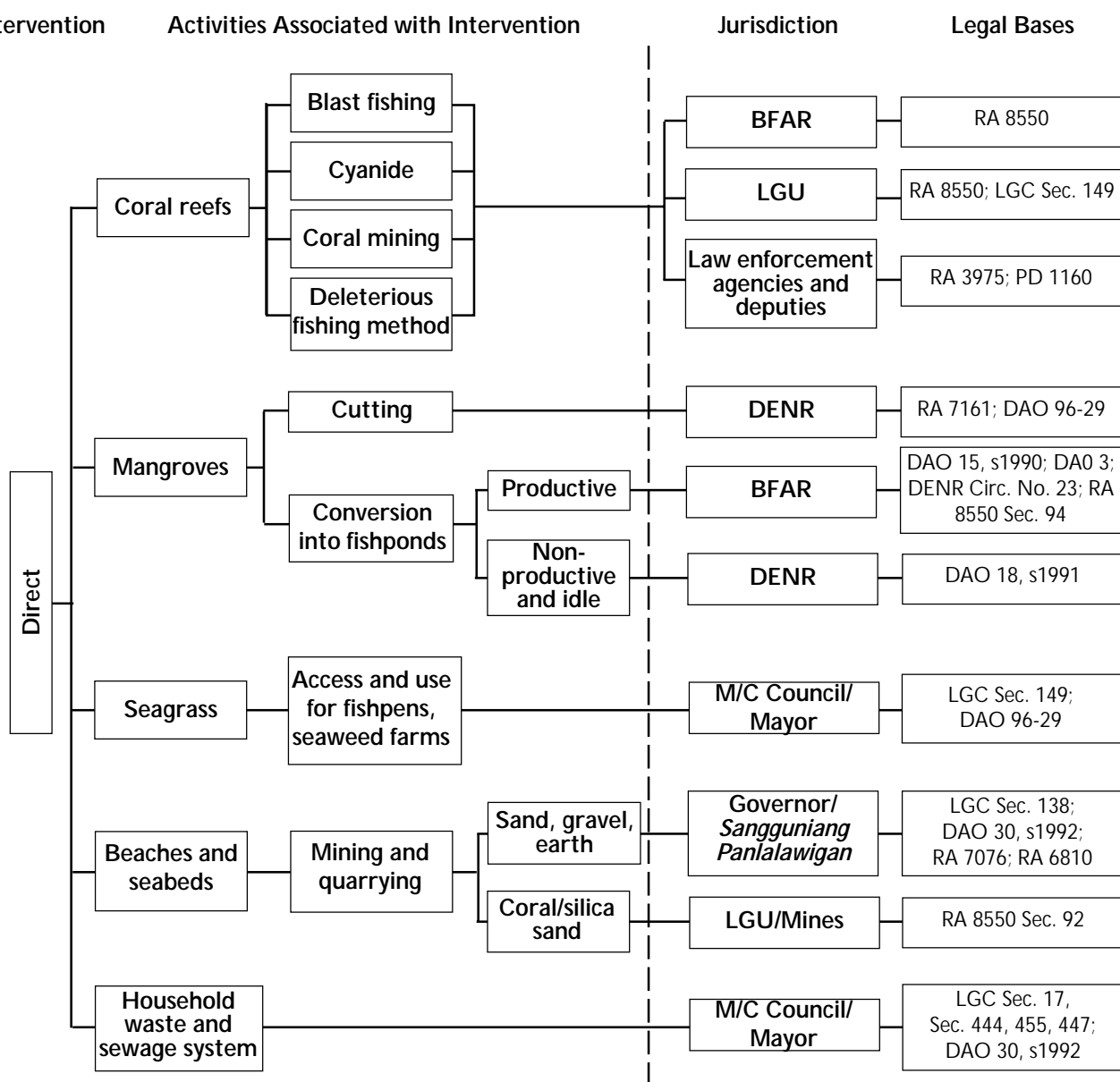


Figure 12. CRM problem network no. 2: Habitat destruction - Direct.

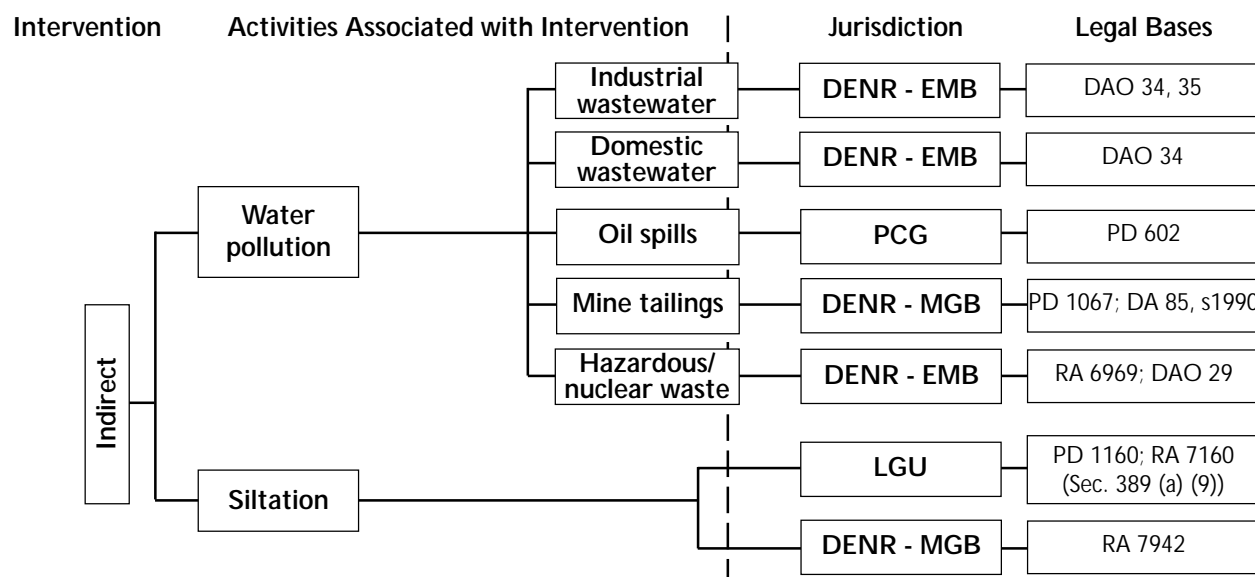


Figure 13. CRM problem network no. 2: Habitat destruction - Indirect.

## LACK OF ENFORCEMENT

Enough laws have been written to manage our resources but enforcement is extremely weak. There are a number of reasons for this: the slow justice system, the system of “incentives” that encourage people to break the law, lack of trained coastal law enforcement units and patrol assets.

Enforcement, as analyzed here, involves all processes from apprehension to prosecution (Figures 14-16). The first level of enforcement, apprehension, already faces logistical bottlenecks, such as the lack of patrol assets and trained personnel, especially for fisheries. When apprehension is successful, there is no guarantee that the case will sufficiently progress and reach prosecution levels.

For one, there is a dearth of legal practitioners familiar with CRM. (Data generated by the FSP show that most apprehensions have not progressed sufficiently to reach the prosecution stage.) The “incentive” system for thwarting the law is borne by a token system of penalties, the *padrino* system, the tolerance and espousal of short-term solutions such as dynamite fishing (which usually translates to destructive resource use), and the lack of political will among the leaders.

Enforcement approaches can either be positive (encourage compliance with the requirements of the law without going to the courts) or negative, for which legal sanctions are imposed. A competent authority like an administrative regulatory body exercises the latter or any court having appropriate jurisdiction when criminal and civil aspects are involved (Castillan 1977).

Enforcement can be carried out either by administrative sanctions or by the court (Tolentino 1992). “Administrative sanctions are frequently used in environmental law enforcement as defined in the implementing rules and regulations.” In such cases, penalties can be meted out by the regulatory agency without court proceedings. This system normally provides for an administrative appellate

procedure with final appeal to a competent court. Meanwhile, the courts provide the venue for administrative agencies “to seek enforcement of their needs and review of actions of administrative agencies to see to it that functions are performed in a proper manner.”

The importance of the judicial institution in the implementation and enforcement of environmental laws cannot be overemphasized due to the following:

- ♦ The complexity of environmental law and the consequent necessity of defining new terms and concepts and redefining old ones;
- ♦ The importance of the right asserted in environmental cases arising out of irrevocable impact of environmental decisions justifies more thorough-going judicial review; and
- ♦ The value judgments present in environmental cases call for the talents and training of the courts and judges than those of administrators (ESCAP 1977).

Administrative sanctions pertaining to the enforcement of environmental laws are lodged in the DA-BFAR for fishery laws and the DENR for environmental laws. These are found in various national laws as well as DAOs. However, it is difficult to impose administrative fines because national agencies do not have sufficient field staff to monitor compliance. The LGU can fill this void by enacting ordinances, which impose fines as provided for by the LGC. While national laws already exist, and there is a case against double jeopardy, local level ordinances can deal with specific offenses not covered by national laws. Such enforcement is akin to an administrative sanction. It must be stated, however, that this LGU function does not dilute nor diminish the powers of the Department Secretaries (and their representatives) to impose fines as they are enabled by different laws.

The enforcement network developed to identify jurisdictional responsibilities shows the extent of authority of LGUs, particularly with respect to fishery laws (both ordinances and national laws). This authority, however, is shared with NGAs, including law enforcement agencies such as the PNP-MARIG, PCG, and BFAR, which is why shirking of responsibilities is common. The role of the citizenry in making arrests is shown in the network to be overarching. A closer look at the enforcement continuum is provided by *Guidebook 8: Coastal Law Enforcement*.

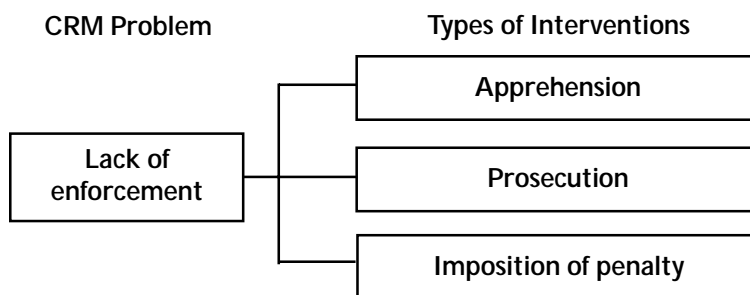


Figure 14. CRM problem network no. 3: Lack of enforcement.

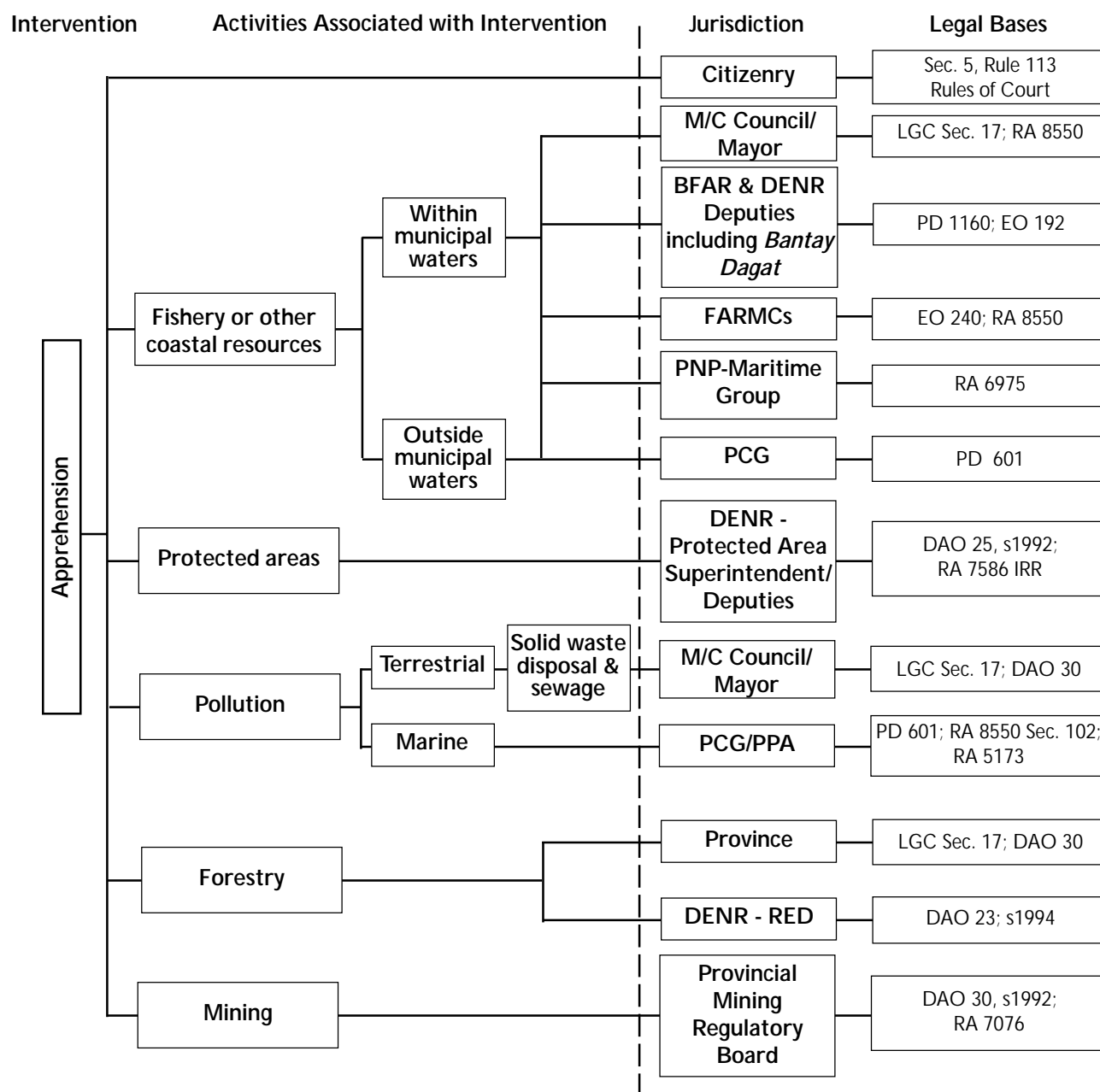


Figure 15. CRM problem network no. 3: Lack of enforcement - Apprehension.

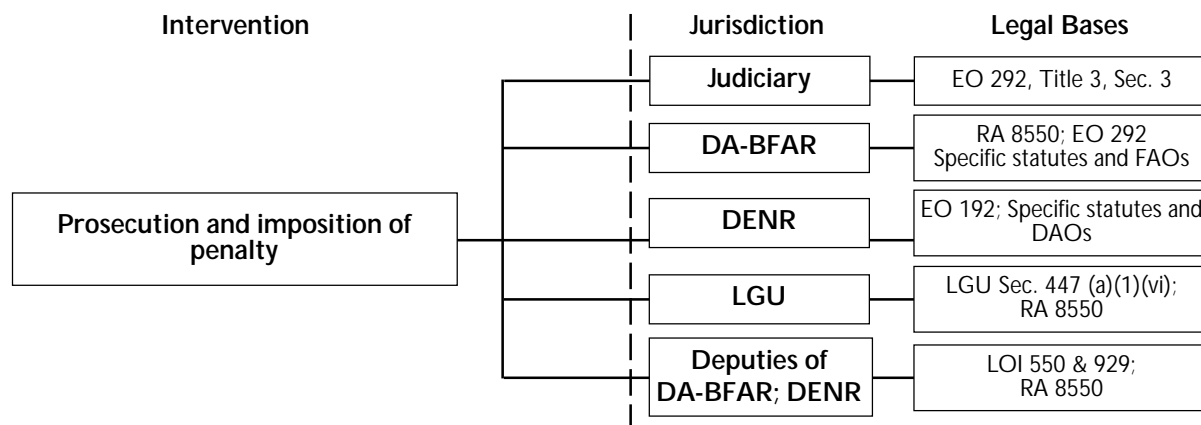


Figure 16. CRM problem network no. 3: Lack of enforcement - Prosecution and imposition of penalty.

## RESOURCE ENHANCEMENT AND CONSERVATION

Resource enhancement and conservation are viewed as positive strategies for management rather than mere defensive techniques (Figure 17). The LGU can be at the forefront of resource enhancement and conservation initiatives by enforcing subsisting laws or by enacting ordinances specific to their localities. Several national laws and administrative orders that deal with conservation and resource enhancement exist including, for fisheries, specific FAOs for the conservation of: 1) milkfish (FAO 129 and 173); 2) marine tropical aquarium fish (FAO 148); 3) *kapis* and other mollusk species (FAO 157 and 158); 4) coral resources (FAO 202); and 5) marine turtles, eggs, and shells (FAO 29, 76, and 88). In addition, the declaration of closed seasons has been devolved to LGUs and the establishment of fish sanctuaries is entirely within the jurisdiction of the LGU. There is no single entity with monopoly over the guidelines and policies for artificial reef deployment, an enhancement technique that has gained wide popularity in local communities. Nevertheless, this document mentions that the DENR, DA, DILG, and DND signed the guidelines on the establishment, utilization, and management of ARs in municipal waters in July 2000.

Other techniques for resource enhancement of critical coastal habitats are presented in *Guidebook 5: Managing Coastal Habitats and Marine Protected Areas*.

The NIPAS Act (RA 7586) is the country's centerpiece for protected area management. Potential conflicts between the PAMB and the LGU regarding jurisdiction are discussed in Chapter 6.

Aside from the enforcement of existing national laws, municipalities, cities, and provinces may also enact ordinances to *protect the environment* (Sec. 447(a)(1)(vi)), LGC; *“adopt measures to safeguard and conserve land, mineral, marine, forest, and other resources of the municipality”* (Sec. 444(a)(b)(3)(vii), *ibid.*); *“authorize the establishment, maintenance and operation by the city government of ferries, wharves, and other structures intended to accelerate productivity related to marine and seashore or offshore activities”* (Sec. 458(5)(iii), *ibid.*); and to *“adopt measures and safeguards against pollution and for the preservation of the natural ecosystem in the province, in consonance with approved standards on human settlements and environmental sanitation.”*

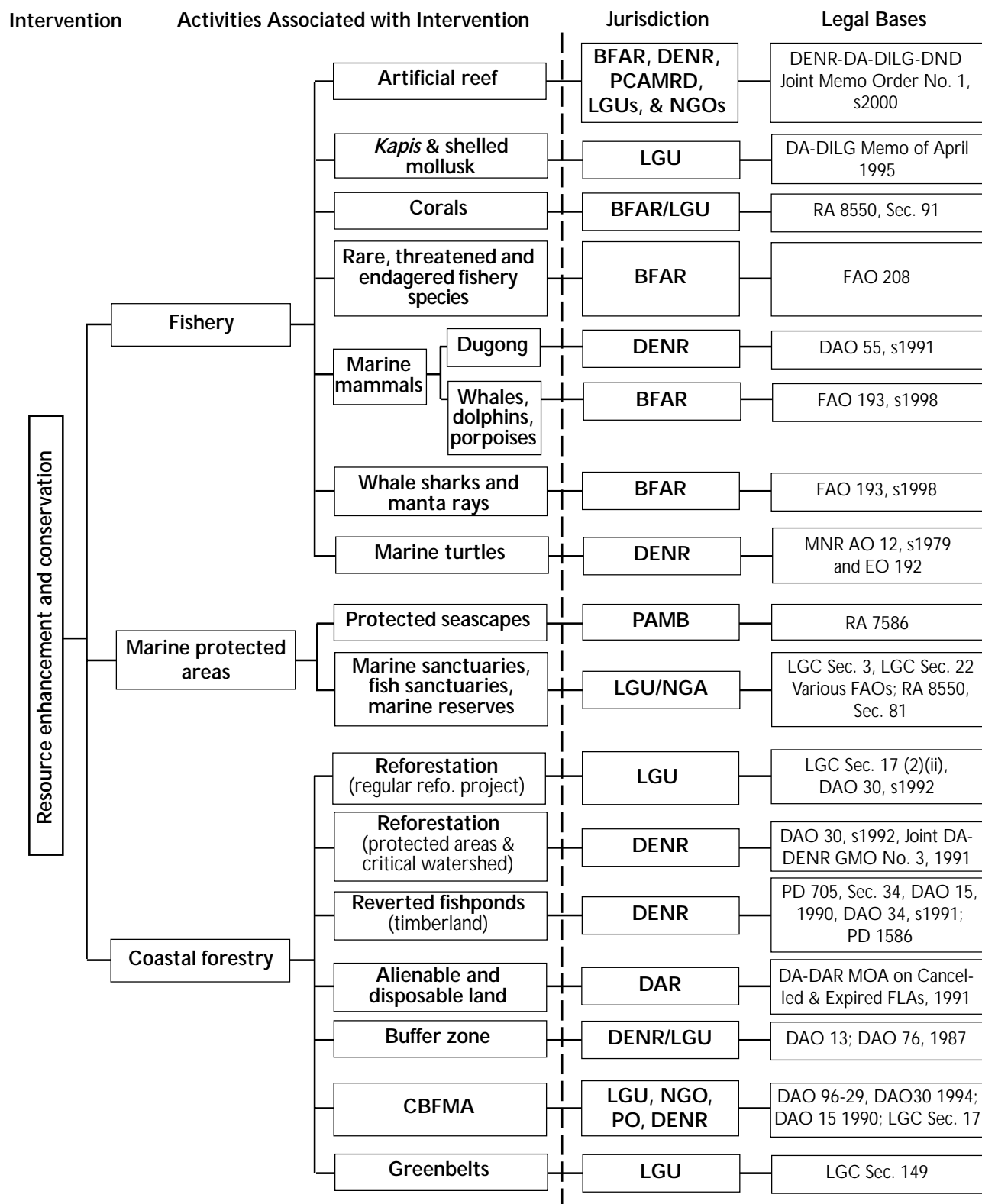


Figure 17. CRM problem network no. 4: Resource enhancement and conservation.

## DEVELOPMENT ACTIVITIES

The coastal zone comprises critical ecosystems and covers a strategic land-and-water interface that makes it an ideal location for development activities. The huge task of development is assigned to both LGUs (RA 7160) and NGAs, such as the Philippine Tourism Authority (PTA), PEA, and PPA, which have specific mandates. It is often the case that development activities experience a growth spurt with regulation and planning being applied only in an *ad hoc* nature or invoked only during crises. The problem network clarifies the scope of responsibility of LGUs and national agencies (Figure 18). The need for LGUs and NGAs to consult, collaborate, and plan in an integrated manner is not apparent in the network but CRMP would like to stress this aspect of development.

A sure sign of progress is land development, including the development of land categorized as public land. Potential issues include rampant conversion of agricultural lands, destruction of coastal ecosystems brought about by reclamation activities, and pollution caused by construction. Land classification activities for LGUs are limited to that of the conduct of cadastral surveys (DAO 30, s1992) with the DENR being mainly responsible for the classification of timberlands, mineral lands, protected areas, as well as those belonging to the broad category of public lands. LGUs, specifically cities and municipalities, are empowered by the LGC to reclassify agricultural land for residential, commercial, and industrial purposes. However, the DA would have to certify that such conversion is feasible while the DENR is tasked to oversee the implementation of the EIS System for land conversion. Foreshore areas are classified as public lands (see Figure 19 and Chapter 6 questions pertaining to foreshore areas) and can only be disposed of by lease agreements. Provinces and municipalities (LGC, Sec. 17(b)(3)(vii) and Sec. 17(b)(4)) can carry out reclamation projects but the PEA is mandated to oversee all reclamation projects.

Coastal tourism is considered a strategic development activity because of its potential to generate foreign exchange and to absorb excess employment from the fishery sector. Tourism-related activities such as diving and swimming may be less of an extractive nature than fishing but unregulated establishment of tourist operations may also cause environmental stress. Both municipalities and provinces can set up tourist facilities (RA 7160) but it is the PTA, which coordinates all tourism project plans and operations (PD 189 and PD 564). The role of the DENR is to see to it that the EIS System is implemented in tourist sites located in environmentally critical areas (ECAs) and in the environmentally critical projects (ECPs) (e.g., golf projects). Local governments are empowered to enact ordinances that cater to specific aspects of tourism-induced issues in their localities, like the use of anchor buoys and collection of endangered flora and fauna, which may not have been dealt with adequately and concisely by national laws.

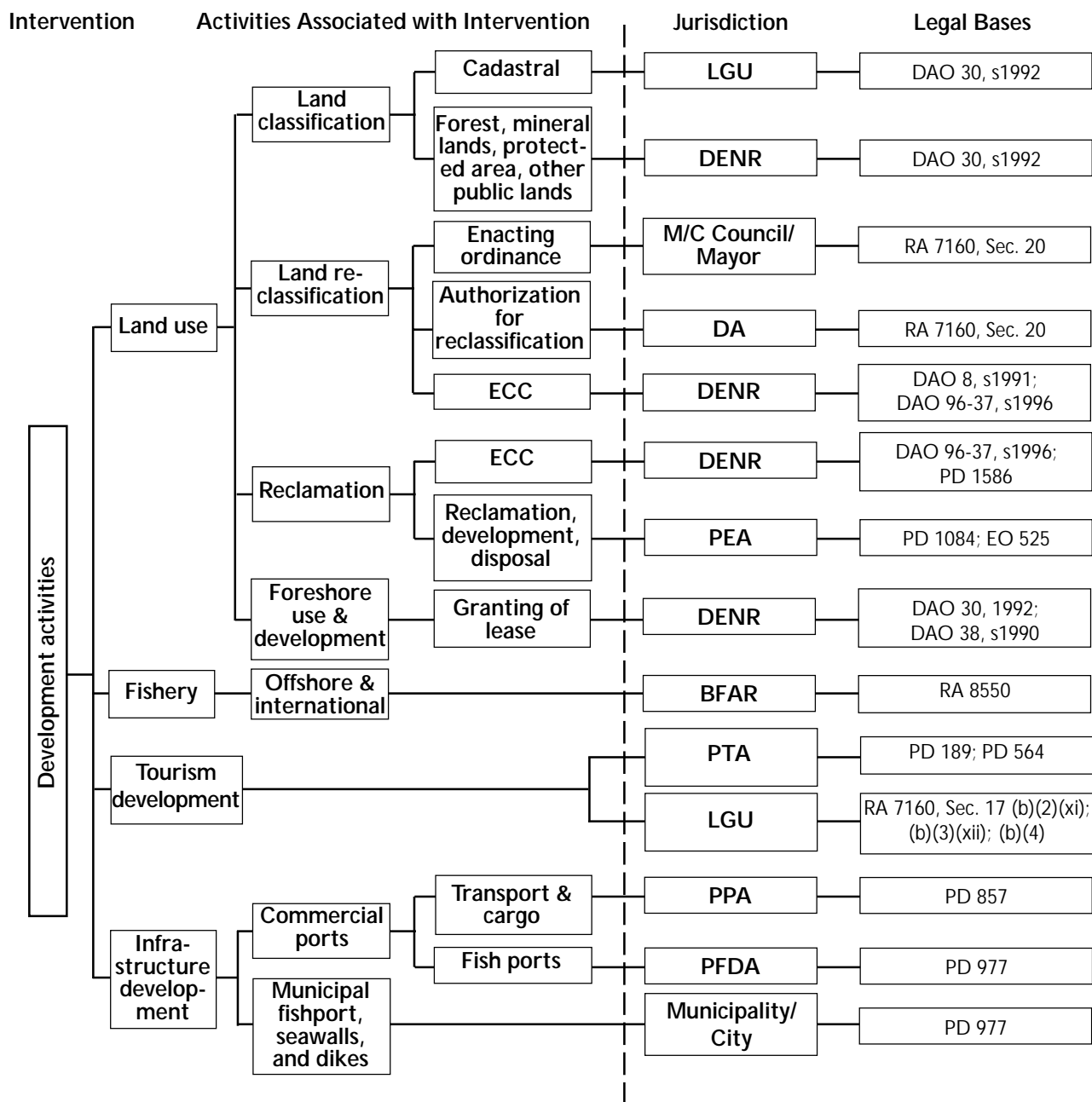


Figure 18. CRM problem network no. 5: Development activities.





# chapter 6

## ***Commonly asked questions answered***

---

Sometimes, our understanding of complex legal and jurisdictional issues can only be understood by asking a question. In this chapter, the legal and jurisdictional framework is presented in the form of questions and answers. The majority of the questions answered have been accumulated in the field, from practitioners, local government officials and staff, NGOs, and coastal community members. The commonly asked questions and answers are organized under the following headings:

- ◆ ***Foreshore Areas*** — Highlighted are issues on the appropriation of foreshore areas as private property; the requirements for a foreshore lease application; procedures in leasing foreshore land; the rights/responsibilities of a lease holder; laws governing easement rights in public lands; and government agencies responsible for reclamation projects.
- ◆ ***Capture Fisheries and Fishery Law Enforcement*** — Among the issues discussed are entities responsible for the delineation of boundaries of municipal waters; the definition of municipal waters; commercial fishing in municipal waters; the issuance of fishing licenses; banned gear; banned fishing activities; illegal fishing; law enforcement agencies; and concession and license fees.
- ◆ ***Mangrove Forests and Fishponds*** — Questions focus on the issuance of FLAs; jurisdiction over mangrove resources; illegal fishponds; ECCs for fishponds; developing/improving fishponds; CBFMA/CFMA; cutting of mangroves; building fishponds in areas not zoned or classified for fishpond operations; and PD 705 (Forestry Law).
- ◆ ***Protected Areas*** — This section concentrates on aspects relating to protected areas and the NIPAS Act; the role of the PAMB; laws applicable to protected areas in general and, in particular, the catching of marine mammals, whale sharks, manta rays, the conservation of marine turtles; the enforcement of national laws; fish sanctuaries; artificial reefs; jurisdiction over municipal waters in a protected area; the role of LGUs; and violations of RA 7586 (NIPAS Act).
- ◆ ***Other Environmental Issues, including Pollution and Habitat Management*** — Issues relate to the role of LGUs in enforcing pollution control laws, e.g., enforcing DENR-EMB effluent standards; policies on solid waste disposal; the role of the PAB of the DENR; the LGUs and implementation of the Law on Toxic Substances, Hazardous and Nuclear Wastes Control Act

(RA 6969); LGUs and government development projects; enforcement agencies; environmental protection and international treaties; the role of the *Sangguniang Bayan* in environmental protection; and the EIS System and ECPs/ECAs.

- ◆ **Mining and Quarrying** — This section focuses on questions relating to the granting of quarry and mining permits, including the entities responsible for their issuance, the conditions and limitations of quarry permits.
- ◆ **Institutional Issues** — Issues highlighted are FARMCs; the Fisheries Code; the role of the LGUs in gathering information for the formulation of resolutions and ordinances; and the resettlement of coastal areas.
- ◆ **Legislation, Taxes, and Penal Provisions** — This portion is devoted to a definition of terms; the ordinance-making function of LGUs; the authority of LGUs to impose penalties; and violations of pollution laws and related penalties.

## FORESHORE AREAS

**Q**

What is the legally accepted definition for foreshore areas?

**A**

The legally accepted definition for foreshore areas is provided by the Fisheries Code as follows: “a string of land margining a body of water; the part of a seashore between the low-water line usually at the seaward margin of a low tide terrace and the upper limit of wave wash at high tide usually marked by a beach scarp or berm” (see Figure 19).

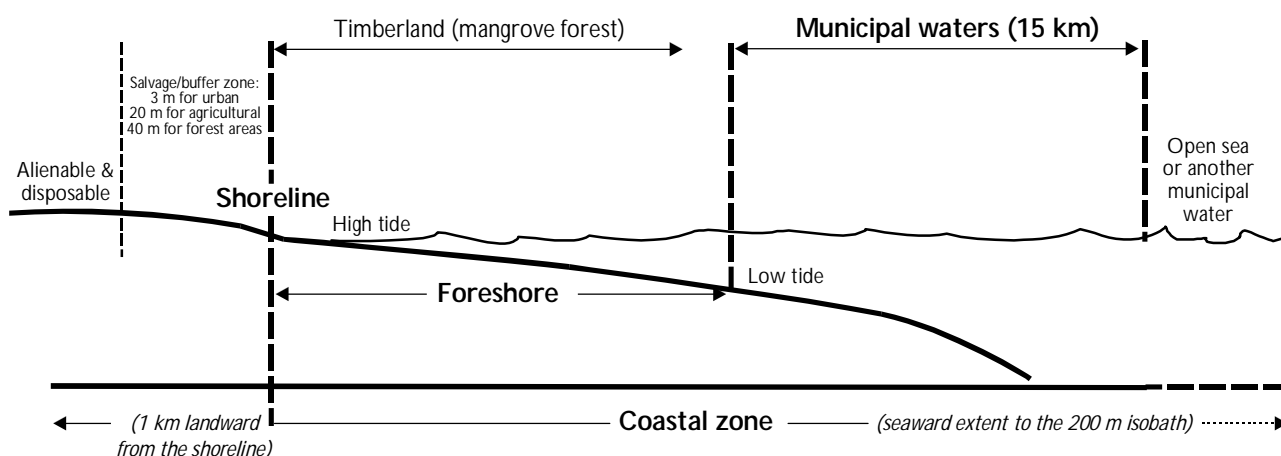


Figure 19. A diagrammatic representation of the foreshore area and other features in the coastal zone (Source: Land Management Bureau).

Lands AO 8-3, s1936, defines “*shore*” as “*the space covered and uncovered by the movement of the tide. Its interior or terrestrial limit is the line reached by highest equinoctial tides. Where the tides are not appreciable, the shore begins on the land side at the line reached by the sea during ordinary storms and tempests.*”

**Q**

**What are the steps in leasing foreshore land?**

**A**

- 1) Filing of application of the Community Environment and Natural Resources Office (CENRO);
- 2) Preliminary investigation and appraisal of the land applied for;
- 3) Survey of the land;
- 4) Recommendation to the official concerned for the approval of the appraisal and request for authority to lease the land through oral bidding;
- 5) Approval of appraisal and grant of authority to lease the land through oral bidding by the official concerned;
- 6) Payment of publication expenses if the appraised value of the land is more than PhP240;
- 7) Publication of the notice of right to lease the land applied for in the Official Gazette and two newspapers of general circulation (one in English and the other in the local dialect) once a week for 6 consecutive weeks and posting of the notice for 6 consecutive weeks at the bulletin boards of the following:
  - a) CENRO
  - b) Municipal/City Halls
  - c) *Barangay* Hall
  - d) On the land itself if practicable
- 8) Public auction and submission of report of bidding, proofs of payment of at least 3 months rental, publication and posting of the notice;
- 9) Order: Award;
- 10) Preparation of the Lease Contract upon payment of 1 year rental;
- 11) Letter of the applicant enclosing the lease contract for his/her signature and that of two credible witnesses and for notarization;
- 12) Letter forwarding the lease contract to the official concerned for his approval and for notarization;
- 13) Letter to the applicant transmitting the approved Lease Contract.

**Note:** The bid of the applicant must not be less than 2 years rental computed at 3 percent of the appraised value of the land plus 1 percent of the value of the existing or proposed improvements. Can foreshore areas be appropriated as private property?

**Q** What are the requirements in the filing of a foreshore lease application?

- A**
- 1) Filing fee of PhP50;
  - 2) Approved plan and technical description of the land applied for;
  - 3) Consent of the spouse if married;
  - 4) Articles of incorporation and certificate of registration from the Securities and Exchange Commission;
  - 5) Certification that the land applied for is not needed for public service from the heads of the following agencies/offices:
    - a) Provincial Tourism Office
    - b) Philippine Ports Authority
    - c) District/City Engineer with concurrence of the Regional Director of Public Works and Highways

**Q** What is the maximum area that may be leased?

- A** Under the 1973 and 1987 Constitutions, an individual may lease not more than 500 ha and a corporation may lease not more than 1,000 ha.

**Q** What is the term of a foreshore lease?

- A** A period of 25 years and renewable for not more than 25 years.

**Q** Who has the preference to apply for a foreshore lease agreement?

- A** The owner of the property adjoining foreshore lands (littoral owner) shall be given preference to apply for such lands adjoining his property as may not be needed for public services, subject to the laws and regulations governing lands of this nature, provided that he applies within 60 days from the date he receives a communication from the Director of Lands advising him of his preferential rights.

**Q** What are the rights and responsibilities of a foreshore lease holder?

- A**
- ♦ Utilize the area for commercial, industrial, or residential purpose as stated in the lease application and contract and comply with PD 1586 or the EIS System;
  - ♦ Pay the annual lease fee amounting to 3 percent of the appraised value of the land plus 1 percent of the value of the existing or proposed improvements;

- ♦ Construct permanent improvements appropriate for whatever purpose is stated in the lease agreement subject to approval of the Secretary of Public Works and Highways and within 18 months from the date of the award;
- ♦ Ensure that the premises or any part thereof are not assigned, subleased, or transferred to a third party without the approval (in writing) of the DENR Secretary;
- ♦ Waive any right to any reduction of rent on account of any loss or damage suffered by reason of extraordinary, unforeseen, and fortuitous events;
- ♦ Submit annually to the Department of Finance for approval, a tariff of any and all rates and fees desired to be charged to and collected from any person in case any and all structures and improvements authorized to be constructed and made shall be let or hired for the use of the public;
- ♦ Comply with the easements as provided by law.

***Obligations of the foreshore lease holder***

Guarantee and provide the general public free access to, and full use and enjoyment of, the beach and nearby coastal waters, either in the pursuit of the inhabitants lawful occupation or their recreational needs. For this purpose, the lessee shall establish and provide a road right-of-way of suitable size, which in no case shall be less than 3 m in width, and location that will permit the public access to the beach area and sea waters without paying any toll. Failure or refusal to comply with this condition shall be valid ground for rejection of application or revocation of the lease award or contract.

**Q**

**Who has jurisdiction over foreshore leases?**

**A**

The DENR. The powers and functions of the DENR include the *“exercise of exclusive jurisdiction on the management and disposition of all lands of the public domain and shall continue to be the sole agency responsible for classification, subclassification, surveying and titling of lands in consultation with appropriate agencies”* (EO 192).

**Q**

**Who may approve foreshore leases?**

**A**

The approving authorities for original lease, renewal, transfer, and sublease for foreshore areas are:

- a) Provincial Environment and Natural Resources Office (PENRO) – up to 1,000 m<sup>2</sup>
  - b) Regional Executive Director (RED) – above 1,000 m<sup>2</sup> to 3 ha
  - c) Secretary – above 3 ha
- as provided for by the DENR Manual of Approvals (DAO 2000-11).

**Q**

**Can foreshore areas be appropriated as private property?**

**A**

No, foreshore areas are part of the public domain.

Commonwealth Act 141, Chapter IX, lists down the classification and concession of PUBLIC LANDS suitable for residence, commerce, and industry to include: (i) lands reclaimed by the government by dredging, filling, or other means; (ii) foreshore; (iii) marshy lands or lands covered with water bordering upon the shores or banks of navigable lakes or rivers; and (iv) lands not included in any of the foregoing classes. Lands classified as (i), (ii), and (iii) shall be disposed of to private parties by LEASE ONLY and NOT otherwise, as soon as the President, upon recommendation by the Secretary of Agriculture and Natural Resources, shall declare that the same are not necessary for the public service and are open to disposition under the same provision.

A recent decision of the Supreme Court (Navarro vs. Pascual) G.R. No. 68166, 2 February 1997, on the titling of accreted land in Manila Bay, invokes Art. 4 of the Spanish Law of Waters of 3 August 1866 to establish the fact that foreshore areas constitute public lands, i.e., *“Lands added to the shores by accretions and alluvial deposits caused by the action of the sea, form part of the public domain. When they are no longer washed by the waters of the sea and are not necessary for purposes of public utility, or for the establishment of special industries, or for the coast-guard service, the Government shall declare them to be the property of the owners of the estates adjacent thereto and as increment thereof.”* The decision states that the foreshore of Manila Bay is public land and is therefore not capable of being appropriated by a private person.

**Q**

**What laws govern easement rights in public lands?**

**A**

• PD 1067, Art. 51. “The banks of rivers and streams and the shores of the seas, and throughout their entire length and within a zone of 3 m in urban areas, 20 m in agricultural areas, and 40 m in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, floatage, fishing, and salvage.”

- ◆ PD 705, Sec. 16. “Areas needed for forest purposes xxx (7) Twenty-meter strips of land along the edge of the normal high waterline of rivers and streams with channels of at least 5 m wide; (8) Strips of mangrove or swamplands at least 20 m wide, along shorelines facing oceans, lakes, and other bodies of water and strips of land at least 20 m facing lakes; xxx.”
- ◆ RA 1273, Sec. 1 (1) “That the applicant agrees that a strip of 40 m wide starting from the bank on each side of any river or stream that may be found on the land applied for shall be demarcated and preserved as permanent timberland to be planted exclusively to trees of known economic value, and that he shall not make any clearing thereon or utilize the same for ordinary farming purposes even after patent shall have been issued to him or a contract lease shall have been executed in his favor.”

**Q****Who may reclaim lands?****A**

National government and the LGUs. EO No. 525 designates the PEA as the agency which shall be primarily responsible for integrating, directing, and coordinating all reclamation projects for and on behalf of the national government. All reclamation projects shall be approved by the President upon recommendation of the PEA and shall be undertaken by the PEA or through a proper contract executed by it with any person or entity. The Philippine Ports Authority (PPA) is also mandated to reclaim lands under EO No. 405 issued on 17 July 1997, “Authorizing the Philippine Ports Authority (PPA) to Reclaim and Develop Submerged Areas Vested in the PPA for Port-Related Purposes.” Prior to this, the authority came from Sec. 6(x) of PD 857. Reclamation projects of any national government agency or entity authorized under its charter shall be undertaken in consultation with the PEA upon approval of the President.

Sec. 17 of the LGC also provides for provinces and cities to reclaim lands in their territory and funded from their budgets.

In both cases, however, reclamation projects must comply with the provisions of PD 1586 of the EIS law.



## CAPTURE FISHERIES AND FISHERY LAW ENFORCEMENT

**Q Who should delineate municipal waters?**

**A** Municipalities and cities as provided for in Rule 16.1 of DA-DAO No. 3 which states that municipalities shall “enact a basic MFO delineating the boundaries of the municipal waters as defined in this Code and providing the rules and regulations on licensing and permits and other fisheries activities: Provided however, that for municipalities whose waters are adjacent or contiguous to international borders, the delineation of boundaries of municipal waters shall be done after due consultation with the DFA and other concerned agencies.”

For purposes of efficiency and expediency, the delineation of municipal territorial waters should be undertaken jointly by contiguous municipalities in the spirit of integrated resource management and also to avoid future controversies over the boundary lines. In cases of overlapping boundaries, Rule 16.6 of DA-DAO No. 3 states that the municipal or city government may seek the assistance of the DA through BFAR, or DENR-NAMRIA, as per Sec. 18.1, to settle the dispute.

**Q Why should municipalities delineate their municipal waters?**

**A** Municipalities should delineate their municipal waters in order to implement the Fisheries Code and local ordinances:

- ◆ Protection/Conservation
  - a. catch ceiling (Sec. 8, RA 8550; Rule 8.2, IRR of RA 8550)
  - b. closed season (Sec. 9, RA 8550; Rule 9.3, IRR of RA 8550)
  - c. entry into overfished areas (Sec. 23, RA 8550)
  - d. fishery reserves (Sec. 80, RA 8550)
  - e. fishery refuge and sanctuaries (Sec. 81, RA 8550)
- ◆ Regulation
  - a. registry of municipal fisherfolk and fishing vessels (Sec. 19, RA 8550)
  - b. fishery privileges (Sec. 17, RA 8550; Sec. 149, RA 7160)
  - c. licenses of fishery activities (Sec. 18, RA 8550; Rule 16.2, IRR of RA 8550)
  - d. licensing of municipal fishing vessels (Sec. 149, RA 7160)
  - e. fish corrals, aquatic beds, and milkfish fry areas (Sec. 149, RA 7160)
  - f. commercial fishing vessel licensing within 10.1 to 15-km area from the shoreline through an ordinance (Sec. 17, RA 8550)
- ◆ Enforcement (Sec. 16, RA 8550; Rule 16.9, IRR of RA 8550)
- ◆ Coordination and Consultation
  - a. integrated management of contiguous fishery areas (Sec. 16, RA 8550)

## Q How should coastal municipalities delineate their municipal waters?

A “Municipal waters” is defined by Sec. 4 of RA 8550 as *“including not only streams, lakes, and tidal waters within the municipality which are not included within the protected areas as defined under RA 7586 (the NIPAS Act), public forest, timberlands, forest reserves, or fishery reserves, but also marine waters included between two lines drawn perpendicularly to the general coastline from points where the boundary lines of the municipality or city touch the sea at low tide and a third line parallel with the general coastline including offshore islands and 15 km from such coastline. Where two municipalities are so situated on the opposite shores that there is less than 15 km of marine waters between them, the third line shall be equally distant from opposite shores of the respective municipalities.”*

DENR Administrative Order 17, *Series of 2001* (DAO 17, *s.2001*); Guidelines for Delineating/Delimiting Municipal Waters) explains the procedures for delineating municipal water boundaries for different types of coastal municipalities and cities and the roles of NAMRIA and local government units in the process. For coastal municipalities and cities with offshore islands, DAO 17, *s.2001* provides that the 15-km waters shall be drawn from the outermost islands (Figure 20). Furthermore, the phrase **“boundary lines of the municipality or city”** indicates that the coastline cannot be limited to the mainland municipality alone but necessarily includes islands as part and parcel of these territories. This is consistent with previous administrative orders for municipalities with component “islands or islets where the distance between them is 14 km or less, the same shall be treated as one island or islet, and the 7-km distance shall be reckoned from the outer shorelines of such group of islands or islets” (Sec. 3, FAO 156; Sec 2 FAO 164).

The phrase **“including offshore islands”** has resulted in conflicting interpretations on how municipalities should delineate their waters. The main contention involves the baseline from which the 15 km waters are to be drawn, i.e., will offshore islands generate its own municipal waters? At the time of the printing of this guidebook, DA-BFAR, through its Director, maintains that the definition of municipal waters in the Fisheries Code implies that offshore islands are considered to be within the 15 kilometers from the shoreline therefore, the outward boundary of municipal waters should be reckoned from the shoreline of the mainland municipality and not from that of the outermost component islands or islets. (Figure 21). BFAR maintains the opinion that the previous law on the matter did not contain the phrase “including offshore islands” and has forwarded this interpretation.

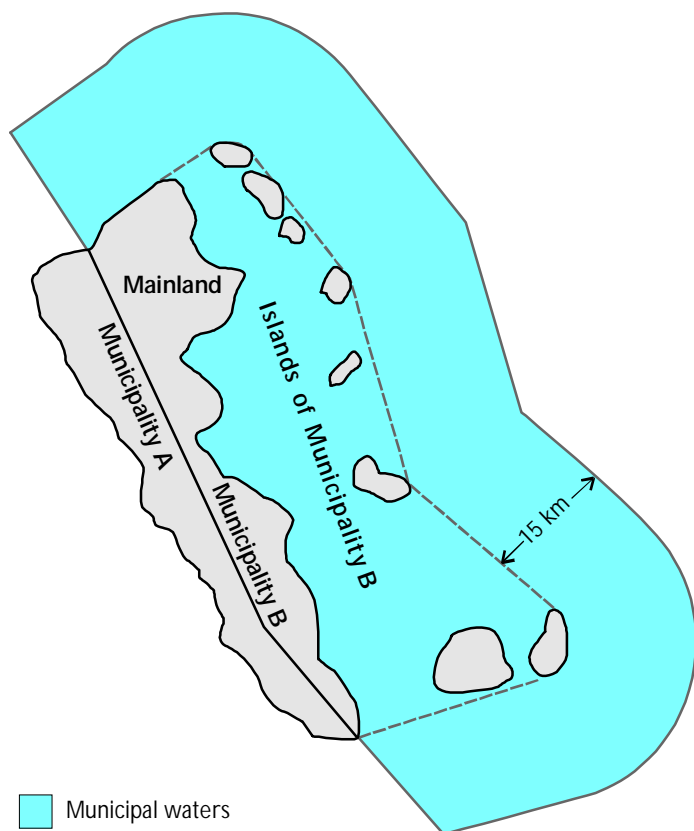


Figure 20. Municipal waters for a coastal municipality with offshore islands delineated according to DAO 2001-17.

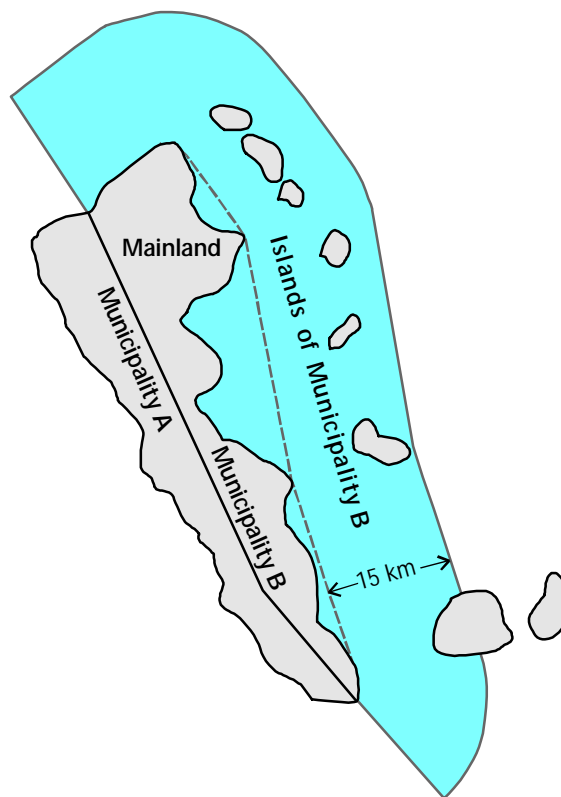


Figure 21. Municipal waters for a coastal municipality with offshore islands based on the opinion of BFAR.

**Q**

Is commercial fishing allowed within municipal waters?

**A**

The Fisheries Code says that commercial fishing within the 15-km area from the shore of municipalities is prohibited. However, as stated in Sec. 18 of the RA 8550, small to medium commercial fishing vessels **may be allowed** to operate within 10.1 to 15-km area by the municipal or city government through its local chief executive acting pursuant to an appropriate ordinance, provided that all the following conditions are met:

- ♦ *no commercial fishing is allowable in municipal waters with a depth of less than 7 fathoms as certified by the appropriate agency;*
- ♦ *all fishing activities shall utilize methods and gear that are determined to be consistent with national policies set by the Department;*
- ♦ *prior consultation, through public hearing, with the M/CFARMC has been conducted; and*
- ♦ *the applicant vessel as well as the ship owner, employer, captain, and crew have been certified by the appropriate agency as not having violated this Code, environmental laws, and related laws.*

In no case shall the authorization or permit mentioned above be granted for fishing in bays determined by the Department to be an environmentally critical condition and during closed season as provided for in Sec. 9 of the Fisheries Code.

The absence of an ordinance expressly permitting commercial fishing within the 10.1 to 15-km area means that such action is prohibited.

**Q**

**What charges can be filed against a commercial fishing vessel caught operating within municipal waters without an appropriate permit?**

**A**

Violation of Sec. 86 of the Fisheries Code – unauthorized fishing or engaging in other unauthorized fishery activities.

**Q**

**Does a municipal ordinance banning the use of certain fishing gear within municipal waters need the approval of the national agencies for the ordinance to be effective?**

**A**

No. The municipality or city may enact ordinances banning the use of certain fishing gear without need for approval from DA-BFAR, in accordance with the procedure for local legislation provided in Sec. 48 to 59 of RA 7160, and review or validation of the provincial council provided in Sec. 56. Municipalities MAY consult with BFAR regarding the enactment of such special ordinances.

**Q**

**May non-residents of the city or municipality (i.e., from other coastal and/or landlocked municipalities) be disallowed from fishing in municipal waters?**

**A**

Yes, through the registry of municipal fisherfolk, and the non-issuance of fishing licenses to non-residents. Sec. 19 of RA 8550 states that among the reasons for the maintenance of a registry of fisherfolk is ... *“the need to determine priorities among them, limiting entry into*

*municipal waters, and of monitoring fishing activities...*” Further, the LGU, in consultation with the FARMCs, “*shall formulate the necessary mechanisms for inclusion or exclusion procedures that shall be most beneficial to the resident municipal fisherfolk*”.

Sec. 149 of the LGC provides the *Sanggunian Bayan* with the power to promulgate rules and regulations regarding the issuance of fishing licenses, which makes it possible to prohibit non-residents from fishing. However, among the fisherfolk of contiguous coastal municipalities sharing resources, it is strongly suggested that, in the spirit of cooperative undertaking (RA 7160, Sec. 33), uniform fishery ordinances be jointly developed for said resource system; thereby espousing “resource-sharing” among municipal fisherfolk of the said municipalities.

Fishers coming from nearby landlocked municipalities may also be allowed to fish for subsistence and leisure purposes.

**Q**

**Can the LGU prohibit the use of certain gear not otherwise covered in existing FAOs?**

**A**

Yes. The broad implication of Sec. 149 of the LGC, “*the sanggunian concerned shall, by appropriate ordinance penalize the use of., and other deleterious methods of fishing and prescribe a criminal penalty therefor*” and the specific powers and functions expressly stated in Sec. 447(a)(1)(vi) means that the *Sangguniang Bayan/Sangguniang Panlalawigan* may prohibit use of certain gear, even if they are not expressly mentioned in the law. Moreover, Sec. 3(I) of the LGC supports such move by stating that the LGC shall share with the national government the responsibility of maintenance of the ecological balance. These statements, however, place the burden of proof upon the *Sangguniang Bayan* to conclusively determine the deleterious effect of the gear discriminated upon.

**Q**

**Can a municipality impose a total ban on all types of fishing activities in order to protect or rehabilitate the resources?**

**A**

No. A municipality cannot impose a total ban on all types of fishing activities. However, if it applies to a specific area or reasonable period of time only as in closed areas and closed seasons, the municipality can. Otherwise, if it were a total ban on all fishing activities including that of subsistence fishing, then such may be deemed unconstitutional because it unjustly deprives fisherfolk of their source of income and way of life and disregards the preferential rights to fishing grounds guaranteed for subsistence under the Constitution.

**Q** Is it legal to collect/harvest corals?

**A** No. Sec. 91 of the Fisheries Code and FAO 202, s2000 bans the gathering, possessing, selling, or exporting of ordinary, precious, and semi-precious corals whether raw or in processed form. Imprisonment from 6 months to 2 years or a fine of two thousand to twenty thousand pesos (Php2,000 – 20,000), or both shall be imposed on any person gathering ordinary, precious, or semi-precious corals. This provision repeals PD 1219 and PD 1698 on corals.

**Q** Can the *Sangguniang Bayan* require payment for the issuance of a fisherman's license or permit?

**A** Yes. Sec. 3 (d) of the LGC states that *“local government units shall have the power to create and broaden their own sources of revenue...”* Municipal fishers who do NOT belong to the group defined as marginal fishers, may be required to pay license fees for regulatory purposes. Moreover, Sec. 149 (a) states that municipalities shall have the exclusive authority to grant fishery privileges in municipal waters and impose rentals, fees, or charges therefor while Sec. 149(b)(3) grants the *Sangguniang Bayan* the power to *“issue licenses for the operation of fishing vessels of 3 t or less for which purpose the Sangguniang Bayan shall promulgate rules and regulations regarding the issuances of such licenses to qualified applicants under existing law”*.

Rule 16.2 of DA-DAO No. 3 further states that municipalities/city governments may, in consultation with the FARMCs, determine license fees of fisheries activities in municipal waters, which should, as much as possible, conform to resource rent parameters and not be determined arbitrarily.

**Q** A public bidding was conducted to award a 5-year fry concession to the highest bidder. However, after it was awarded, the lessee petitioned the municipal council to lower the lease rates by 20 percent, and to extend the original lease period. These were granted by means of a resolution of the council. Is this legal?

**A** No. The requirement of competitive bidding, in the event that there are no marginalized groups participating, is for the purpose of inviting competition, to guard against favoritism, fraud, and corruption in the letting of fishery privileges, and ensure that the government receives the most reasonable and best possible compensation for the grant of the privilege involved. While there is no doubt that the original lease contract was awarded to the highest bidder, the subsequent changes in the terms and conditions of the lease contract are contrary to the very purpose of public bidding. Considering the nature of the

changes, these amendments are tantamount to a substitution of the lease contract, i.e., it is an entirely different contract from that subjected to the public bidding, and therefore must be subjected to a new bidding by all interested parties. The council resolution is null and void as contrary to law and public policy.

**Q**

**Are small fisherfolk organizations exempted from paying the concession fee for the grant of the privilege to erect fish corrals, culture oyster, mussel, and other species, or milkfish fry areas?**

**A**

No. The Fisheries Code states only that small fisherfolk organizations are to be given preference in the grant of fishery rights and privileges, not that they are exempted from paying the appropriate concession fees which may be exacted by the municipality in exchange for the privilege. All coastal municipalities are encouraged to enact a basic municipal fishery ordinance which must establish, among other things, a schedule of fees for all types of fishery activities.

Only “marginal fishermen” are expressly allowed to be exempted from payment of certain fishery rentals, fees, or charges. “Marginal fishermen” is defined by Sec. 149(b)(2) of the LGC as *“those engaged in fishing which shall be limited to the sale, barter, or exchange of marine products produced by himself and his immediate family.”* The grant of these privileges for free must be provided for by an appropriate ordinance, and is limited to the gathering, taking, or catching of milkfish fry, prawn fry, *kawag-kawag* or fry of other species, and fishing in municipal waters by means of nets, traps, or other gear operated by them.

LGUs are further dissuaded to grant such privileges “for free” in the spirit of regaining lost economic rent from the resource.

**Q**

**How much is allowed to be paid as license fees?**

**A**

Rule 16.2 of the IRR of the RA 8550 states that the municipal or city government shall determine the license fees in consultation with the FARMCs; the FARMCs, for their part, may recommend the appropriate fees. It is suggested that LGUs and FARMCs also subscribe to some form of technical/financial analysis or some simplified forms of economic rent estimation to determine license fees.

A general guideline in the determination of fees and other charges is provided in Sec. 130 of the LGC, that fees must not be unjust, excessive, oppressive, or confiscatory.

**Q Can community health officers give permits to those engaged in fishing with the use of compressors?**

**A** Community health officers certify only the dive-worthiness of individuals and not the fishing activity held in conjunction with the diving. The grant of fishery privileges, regardless of the gear to be used, is an exclusive power of the *Sangguniang Bayan*. The *Sangguniang Bayan* may require health certificates for those who are engaged in fishing with the use of compressors but this cannot in any way be a substitute for a fishery license.

**Q Is fishing with the use of compressors legal?**

**A** There is no law that bans the mere use of compressors as an aid to fishing. However, if a national law prohibits the fishing operation involved, then the diver using a compressor shall be liable under that law. For example, a cyanide fisher using a compressor is liable for cyanide fishing under the Fisheries Code, regardless of the fact that he is using a compressor. If the fishing activity comprises the gathering of marine mollusks, the diver should also possess a shell-fishing license from the BFAR (FAO No. 11) and should not violate Sec. 103 (c) of the Fisheries Code.

However, a municipality MAY ban compressor fishing through an appropriate municipal ordinance if it is used in association with specific fishing practices, which may cause ecological imbalance, or if it deems such an activity to be detrimental to the general welfare of its constituents. Under the LGC, a city or municipality has a general power to enact such ordinances as may be necessary to protect the general welfare of its inhabitants; thus if the use of compressors by fisherfolk is deemed to be hazardous or detrimental to the user or causes ecological imbalance, its use may be prohibited by the city or municipality.

**Q What is illegal fishing?**

**A** Illegal fishing is fishing with the use of destructive materials/substances such as dynamite or its derivatives, noxious or poisonous substances, electricity, or the use of fishing gear prohibited by existing fishery laws, rules, and regulations.

**Q What are the differences between pre-RA 8550 laws and RA 8550 on the prescribed penalties for illegal fishing activities?**

**A** See Table 14.



**Table 14. Differences between pre-RA 8550 laws and RA 8550 on the prescribed penalties for illegal fishing activities.**

Illegal fishing activity	Prior to RA 8550		Provisions of RA 8550 (and related issuances)		Comment
	Offense	Penalty	Offense	Penalty	
Blast or dynamite fishing	<b>PD 704; as amended by PD 1058</b>		<b>Sec. 88</b>		
	<ul style="list-style-type: none"> <li>Mere possession of explosives</li> <li>Fishing with explosives</li> <li>Knowingly possessing, dealing in, selling, or in any manner disposing of, for profit illegally caught/gathered fishes</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment ranging from 12 to 25 years</li> <li>Imprisonment from 20 years to life imprisonment provided that if the use of explosives results in               <ul style="list-style-type: none"> <li>Physical injury to any person, the penalty shall be imprisonment ranging from 25 years to life imprisonment</li> <li>The loss of human life, the penalty shall be life imprisonment or death.</li> </ul> </li> <li>Imprisonment ranging from 5 to 10 years</li> </ul>	<ul style="list-style-type: none"> <li>Mere possession of dynamite, other explosives, and chemical compounds which contain combustible elements</li> <li>Fishing with explosives</li> <li>Dealing in, selling, or in any manner disposing of, for profit illegally caught/gathered fishes</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment ranging from 6 months to 2 years</li> <li>Imprisonment ranging from 5 to 10 years without prejudice to the filing of separate criminal cases when the use results to physical injury or loss of human life</li> <li>Imprisonment ranging from 6 months to 2 years</li> <li>Forfeiture of the fishing vessels, fishing equipment and catch</li> </ul>	<ul style="list-style-type: none"> <li>Duration of imprisonment has been shortened</li> <li>Duration of imprisonment has been shortened</li> <li>Duration of imprisonment has been shortened but the "KNOWINGLY" clause has been deleted so as not to be used as alibi</li> <li>Additional penalty</li> </ul>
Cyanide fishing	<b>PD 704; as amended by PD 1058</b>		<b>Sec. 88</b>		
			<ul style="list-style-type: none"> <li>Mere possession of noxious or poisonous substances such as sodium cyanide</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment ranging from 6 months to 2 years</li> </ul>	<ul style="list-style-type: none"> <li>New prohibition</li> </ul>

(continued)

Table 14. (continued)

Illegal fishing activity	Prior to RA 8550		Provisions of RA 8550 (and related issuances)		Comment
	Offense	Penalty	Offense	Penalty	
	<ul style="list-style-type: none"> <li>Fishing with noxious or poisonous substances</li> <li>Knowingly possessing, dealing in, selling, or in any manner disposing of, for profit illegally caught/gathered fishes</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment ranging from 8 to 10 years, provided that if the use of substance results in:               <ul style="list-style-type: none"> <li>Physical injury to any person, the penalty shall be imprisonment from 10 to 12 years; or</li> <li>The loss of human life, the penalty shall be life imprisonment or death.</li> </ul> </li> <li>Imprisonment ranging from 5 to 10 years</li> </ul>	<ul style="list-style-type: none"> <li>Fishing with noxious or poisonous substances such as sodium cyanide</li> <li>Dealing in, selling, or in any manner disposing of, for profit illegally caught/gathered fishes</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment ranging from 5 to 10 years without prejudice to the filing of separate criminal cases when the use results to physical injury or loss of human life</li> <li>Imprisonment ranging from 6 months to 2 years</li> <li>Forfeiture of the fishing vessels, fishing equipment and catch</li> </ul>	<ul style="list-style-type: none"> <li>Duration of imprisonment has been shortened</li> <li>Duration of imprisonment has been shortened but the "KNOWINGLY" clause has been deleted so as not to be used as alibi</li> <li>Additional penalty</li> </ul>
Electrofishing	<b>PD 704</b> <ul style="list-style-type: none"> <li>Electrofishing</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment ranging from 2 to 4 years</li> </ul>	<b>Sec. 88</b> <ul style="list-style-type: none"> <li>Mere possession of equipment or device for electrofishing</li> <li>The use results to physical injury or loss of human life</li> <li>Dealing in, selling, or in any manner disposing of, for profit illegally caught/gathered fishes</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment ranging from 6 months to 2 years</li> <li>Imprisonment ranging from 5 to 10 years without prejudice to the filing of separate criminal cases</li> <li>Imprisonment ranging from 6 months to 2 years</li> <li>Forfeiture of the fishing vessels, fishing equipment, and catch</li> </ul>	<ul style="list-style-type: none"> <li>New prohibition</li> <li>Duration of imprisonment has been lengthened</li> <li>New prohibition</li> <li>Additional penalty</li> </ul>

(continued)

Table 14. (continued)

Illegal fishing activity	Prior to RA 8550		Provisions of RA 8550 (and related issuances)		Comment
	Offense	Penalty	Offense	Penalty	
Use of fine mesh nets	<p><i>FAO 155, s1986</i></p> <ul style="list-style-type: none"> <li>♦ Use of fine mesh nets</li> </ul>	<ul style="list-style-type: none"> <li>♦ A fine of not less than PhP500 but not more than PhP5,000 or imprisonment of not less than 6 months to 4 years, or both such fine and imprisonment, at the discretion of the court</li> <li>♦ Provided, however, that the Director of BFAR is empowered to impose upon the offender an administrative fine of not more than PhP5,000 including the confiscation of the fishery nets or paraphernalia and the fish catch.</li> </ul>	<p><i>Sec. 89</i></p> <ul style="list-style-type: none"> <li>♦ Use of fine mesh nets</li> </ul>	<ul style="list-style-type: none"> <li>♦ A fine from PhP2,000 to PhP20,000 or imprisonment from 6 months to 2 years, or both such fine and imprisonment at the discretion of the court</li> <li>♦ Provided, that if the offense is committed by a commercial fishing vessel, the boat captain and the master fisherman shall also be subjected to the penalties provided</li> <li>♦ Provided, further, that the owner/operator of the commercial fishing vessel who violates this provision shall be subjected to the same penalties</li> <li>♦ Provided, finally, that the Department is hereby empowered to impose upon the offender an administrative fine and/or cancel his permit or license or both</li> </ul>	<ul style="list-style-type: none"> <li>♦ Fine has increased but duration of imprisonment has been shortened. Included also as liable to the law are the boat captain, master fisherman, and the owner/operator of the commercial fishing vessel</li> </ul>

(continued)

Table 14. (continued)

Illegal fishing activity	Prior to RA 8550		Provisions of RA 8550 (and related issuances)		Comment
	Offense	Penalty	Offense	Penalty	
Use of active gear in municipal waters and bays and other fishery management area	<b>FAO 156, s1986</b> ♦ Operation of commercial trawl and purse seine	♦ A fine of not less than PhP500 but not more than PhP5,000 or imprisonment of not less than 6 months to 4 years, or both such fine and imprisonment, at the discretion of the court to those that fish using trawl or purse seine within 7 km from shorelines of all provinces  ♦ Provided, however, that the Director of BFAR is empowered to impose upon the offender an administrative fine of not more than PhP5,000 including the confiscation of the fishery nets or paraphernalia and the fish catch.	<b>Sec. 90; FAO 201, S2000</b> ♦ Operation of commercial trawl and purse seine	♦ Imprisonment from 2 to 6 years for the boat captain and master fisherman ♦ Fine of PhP2,000 to PhP20,000 for the owner/operator, chief executive officer if the owner is a corporation, and managing partner if partnership upon discretion of the court ♦ Confiscation of catch	♦ Coverage expanded to include all active gears. Penalty has increased. The penalty of the fishers differs from the penalty of the owner/operator  ♦ Additional penalty
Fishing in Philippine waters with the use of <i>muro-ami</i> (drive-in-net), <i>kayakas</i> , scareline (Serosca)	<b>FAO 163, s1996</b> ♦ Fishing in Philippine waters with the use of <i>muro-ami</i> (drive-in-net), <i>kayakas</i> , scareline (Serosca)	♦ Imprisonment of not less than 6 months to 4 years, or fine of PhP500 to PhP5,000 or both	<b>Sec. 92</b> ♦ Fishing with the use of <i>muro-ami</i> , other methods destructive to coral reefs and other marine habitats	♦ Imprisonment from 2 to 10 years or a fine of PhP100,000 to PhP500,000 or both such fine and imprisonment at the discretion of the court to the operator, boat captain, master fisherman ♦ Confiscation of catch and gear	♦ Severity of penalty has been increased. ♦ Expanded liability to include the operator, boat captain, and master fisherman  ♦ Additional penalty

(continued)

Table 14. (continued)

Illegal fishing activity	Prior to RA 8550		Provisions of RA 8550 (and related issuances)		Comment
	Offense	Penalty	Offense	Penalty	
Exportation of breeders, spawners, eggs, or fry	<i>PD 704, Sec. 36</i> ♦ Exportation of milkfish fry	♦ Imprisonment of 1 year to 5 years or fine of PhP1,000 to PhP5,000 or both	<i>Sec. 99</i> ♦ Exportation of breeders, spawners, eggs, or fry	♦ Imprisonment of 8 years, confiscation of the breeders, spawners, eggs, or fry or a fine equivalent to double the value of the same, and revocation of the fishing and/or export license/permit	♦ Scope of the prohibition has been broadened to include fry of other species and also breeders, spawners, or eggs of milkfish and other species. The severity of penalty has been increased
Taking or catching, selling, possessing, transporting of <i>sabalo</i>	<i>FAO 129, s1980</i> ♦ Taking or catching, selling, possessing, transporting <i>sabalo</i>	♦ A fine of PhP500 to PhP5,000 or imprisonment of 6 months to 4 years or both at court's discretion	<i>Sec. 98</i> ♦ Catching, gathering, or capturing <i>sabalo</i>  ♦ Aside from <i>sabalo</i> , it is also unlawful for any person to catch, gather, capture other breeders or spawners of other fishery species as may be determined by the DA	♦ A fine of PhP80,000 and/or imprisonment of 6 months and 1 day to 8 years ♦ Forfeiture of the catch, and fishing equipment used and revocation of license	♦ Penalty has been increased. Selling and transporting are not considered unlawful ♦ Additional penalty ♦ New prohibition
Exportation or importation of fish and fishery products from point of origin to another place without permit	<i>PD 704 (Sec. 18, FAO 157 and 135)</i> ♦ Exportation or importation without permit	♦ Imprisonment of 6 months to 4 years or a fine of PhP500 to PhP5,000 or both ♦ Permit may be cancelled	<i>Sec. 100</i> ♦ Exportation or importation without permit	♦ Imprisonment of 8 years and a fine of PhP80,000 ♦ Forfeiture of non-live fishery species or destruction of live fishery species	♦ Penalty has been increased ♦ Additional penalty

(continued)

Table 14. (continued)

Illegal fishing activity	Prior to RA 8550		Provisions of RA 8550 (and related issuances)		Comment
	Offense	Penalty	Offense	Penalty	
		<ul style="list-style-type: none"> <li>Fish and fishery may be confiscated</li> </ul>		<ul style="list-style-type: none"> <li>Banning of violators from being members or stock holders of companies currently engaged in fisheries or companies to be created in the future</li> </ul>	
Importation of live shrimp and prawns at all stages except those with special permit	<b>FAO 189, s1993</b> <ul style="list-style-type: none"> <li>Importation of live shrimp and prawns at all stages except those with special permit</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of 6 months to 4 years or a fine of PhP500 to PhP5,000 or both</li> </ul>	<b>Sec. 100</b> <ul style="list-style-type: none"> <li>Importation of fish or fishery species</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of 8 years and a fine of PhP80,000</li> <li>Forfeiture of non-live fishery species or destruction of live fishery species</li> <li>Banning of violators from being members or stock holders of companies currently engaged in fisheries or companies to be created in the future</li> </ul>	<ul style="list-style-type: none"> <li>Penalty has been increased</li> <li>Additional penalty</li> <li>Additional penalty</li> </ul>
Transporting fishery products from point of origin to another place without auxiliary invoice	<b>FAO 2-89/19-6, FAO 145</b> <ul style="list-style-type: none"> <li>Transporting fishery products from point of origin to another place without auxiliary invoice</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of 6 months to 4 years or fine of PhP500 to PhP5,000</li> </ul>	<ul style="list-style-type: none"> <li>NOT considered an offense</li> </ul>		
Entry of any foreign fishing vessel in Philippine waters	<b>PD 704, Sec. 39</b> <ul style="list-style-type: none"> <li>Entry of any foreign fishing vessel in Philippine waters</li> </ul>	<ul style="list-style-type: none"> <li>Administrative confiscation of the catch and fishing equipment without prejudice to criminal or civil action that may be taken against the operator</li> </ul>	<b>Sec. 87</b> <ul style="list-style-type: none"> <li>Entry of any foreign fishing vessel in Philippine waters</li> </ul>	<ul style="list-style-type: none"> <li>Confiscation of catch, fishing equipment, and fishing vessel</li> <li>A fine of USD100,000.00</li> <li>The Department of Agriculture may impose an administrative</li> </ul>	<ul style="list-style-type: none"> <li>Penalty has included confiscation of fishing vessel</li> <li>Additional penalty</li> <li>Additional penalty</li> </ul>

(continued)

Table 14. (continued)

Illegal fishing activity	Prior to RA 8550		Provisions of RA 8550 (and related issuances)		Comment
	Offense	Penalty	Offense	Penalty	
				fine of USD50,000.00 to USD100,000.00 or its equivalent in Philippine currency	
Discharging and placing in Philippine waters substances or materials deleterious to fishery aquatic life	<b>PD 704, Sec. 37</b> <ul style="list-style-type: none"> <li>Discharging and placing in Philippine waters substances or materials deleterious to fishery aquatic life</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of 6 months to 4 years or fine of PhP500 to PhP5,000</li> </ul>	<b>Sec. 102</b> <ul style="list-style-type: none"> <li>Introducing deleterious substances to the aquatic environment</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of 6 years and 1 day to 12 years and/or a fine of PhP80,000</li> <li>An additional fine of PhP8,000 per day until such violation ceases and the fines paid</li> </ul>	<ul style="list-style-type: none"> <li>Penalty has been increased</li> <li>Additional penalty</li> </ul>
Construction or establishment of fishpond or fish enclosures in inland waters without permit	<b>FAO 109</b> <ul style="list-style-type: none"> <li>Construction or establishment of fishpond or fish enclosures in inland waters without permit</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of 6 months to 4 years</li> </ul>	<b>Sec. 103</b> <ul style="list-style-type: none"> <li>Construction and operation of fish corrals/traps, fish pens, and fish cages without permit</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment from 1 month and 1 day to 6 months at court's discretion</li> <li>A fine ranging from PhP2,000 to PhP10,000 at court's discretion</li> <li>A discretionary administrative fine of PhP10,000 and/or cancellation of permit</li> </ul>	<ul style="list-style-type: none"> <li>Prohibition has been modified. Duration of imprisonment has been shortened</li> <li>Additional penalty</li> <li>Additional penalty</li> </ul>
Obstruction of fishery officer	<b>PD 704, Sec. 41 (d)</b> <ul style="list-style-type: none"> <li>Obstruction of fishery officer from boarding fishing boat</li> </ul>	<ul style="list-style-type: none"> <li>A fine not exceeding PhP500 and cancellation of license</li> </ul>	<b>Sec. 104</b> <ul style="list-style-type: none"> <li>Obstruction of fishery law enforcement officer from performing his duty</li> </ul>	<ul style="list-style-type: none"> <li>A fine of PhP10,000 and cancellation of registration, permit and/or license</li> </ul>	<ul style="list-style-type: none"> <li>Prohibition has been generalized. The fine has been increased</li> </ul>

(continued)

Table 14. (continued)

Illegal fishing activity	Prior to RA 8550		Provisions of RA 8550 (and related issuances)		Comment
	Offense	Penalty	Offense	Penalty	
				<ul style="list-style-type: none"><li>♦ Cancellation of the master fisherman's license</li></ul>	<ul style="list-style-type: none"><li>♦ Additional penalty</li></ul>
Unlawful obstruction or delays in the inspection and/or movement of fish and fishery products when such inspection and movement are authorized	<b>PD 704, Sec. 38 (d)</b> <ul style="list-style-type: none"><li>♦ Unlawful obstruction or delays in the inspection and/or movement of fish and fishery products when such inspection and movement are authorized</li></ul>		<b>Sec. 106</b> <ul style="list-style-type: none"><li>♦ Obstruction of fishery law enforcement officer from performing his duty</li><li>♦ A fine of PhP10,000 and cancellation of registration, permit and/or license</li><li>♦ Cancellation of the master fisherman's license</li></ul>		<ul style="list-style-type: none"><li>♦ Prohibition has been generalized. The fine has been increased. Imprisonment as penalty has been scrapped</li><li>♦ Additional penalty</li></ul>
Fishing in fishery reserves, refuge, and sanctuaries	<b>PD 704</b> <ul style="list-style-type: none"><li>♦ Vessels entering fishery reserve or enclosed area</li></ul>		<b>Sec. 96</b> <ul style="list-style-type: none"><li>♦ Fishing in fishery reserves, refuge, and sanctuaries</li><li>♦ Imprisonment from 2 to 6 years and/or a fine from PhP2,000 to PhP20,000</li><li>♦ Forfeiture of catch and the cancellation of fishing permit and license</li></ul>		<ul style="list-style-type: none"><li>♦ Prohibition has been clarified. Duration of imprisonment has been shortened but fine has been increased</li></ul>
Exploiting and exporting corals	<b>PD 1219, PD 1698, and FAO 184, s1992</b> <ul style="list-style-type: none"><li>♦ Gathering precious or semiprecious corals without permit</li></ul>		<b>Sec. 91, FAO 202, s2000</b> <ul style="list-style-type: none"><li>♦ Gathering, possessing, selling, or exporting ordinary, precious, or semiprecious raw or processed corals</li><li>♦ Imprisonment from 6 months to 2 years and a fine from PhP2,000 to PhP20,000 or both</li><li>♦ Forfeiture and proper disposition of the subject corals and the vessels used</li></ul>		<ul style="list-style-type: none"><li>♦ Prohibition has been modified. Increased penalty. No permit should be given for gathering, possessing, selling, or exporting ordinary, precious, or semiprecious raw or processed corals</li></ul>
Illegal use of superlight	<b>Joint DA-DILG AO No. 4, s1996</b> <ul style="list-style-type: none"><li>♦ Use of superlights in municipal waters</li></ul>		<b>Sec. 93, FAO 204, s2000</b> <ul style="list-style-type: none"><li>♦ Use of superlight in municipal waters or in violation of the rules and regulations on the use of</li><li>♦ Imprisonment from 6 months to 2 years and/or a fine of PhP5,000 per superlight</li></ul>		<ul style="list-style-type: none"><li>♦ Prohibition has been modified. The duration of imprisonment has been shortened and the fine mechanism has been changed resulting in the</li></ul>

(continued)



Table 14. (continued)

Illegal fishing activity	Prior to RA 8550		Provisions of RA 8550 (and related issuances)		Comment
	Offense	Penalty	Offense	Penalty	
		<ul style="list-style-type: none"> <li>Possible cancellation of license and imposition of an administrative fine of PhP5,000</li> </ul>	superlights outside municipal waters	<ul style="list-style-type: none"> <li>Confiscation of superlight, fishing gears, and the vessel</li> </ul>	increase of the amount. No cancellation of license <ul style="list-style-type: none"> <li>Additional penalty</li> </ul>
Obstruction of navigation or flow and ebb of tide	<b>PD 704</b> <ul style="list-style-type: none"> <li>Obstruction of navigation or flow and ebb of tide</li> </ul>	<ul style="list-style-type: none"> <li>Removal of the obstruction</li> </ul>	<b>Sec. 103</b> <ul style="list-style-type: none"> <li>Obstruction of navigation or flow and ebb of tide</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of one month and one day to six months and/or a fine of PhP2,000 to PhP10,000</li> <li>The Secretary of the Department of Agriculture is empowered to impose an administrative fine of not more than PhP10,000.00 and/or to cancel the fishing permit or license</li> </ul>	<ul style="list-style-type: none"> <li>Penalty has increased</li> </ul>
Commercial fishing operators employing unlicensed fisherfolk, fishworker, or crew	<b>PD 704</b> <ul style="list-style-type: none"> <li>Commercial fishing operators employing unlicensed fisherfolk, fishworker, or crew</li> </ul>	<ul style="list-style-type: none"> <li>A fine for the vessel of PhP50 to PhP100 for each fisherfolk and for each month the fisherfolk was employed</li> </ul>	<b>Sec. 104</b> <ul style="list-style-type: none"> <li>Commercial fishing operators employing unlicensed fisherfolk, fishworker, or crew</li> </ul>	<ul style="list-style-type: none"> <li>A fine for the owner/operator of PhP500 for every month of employment of an unlicensed crew member and/or PhP1,000 for every month for each unlicensed crew member employed</li> </ul>	<ul style="list-style-type: none"> <li>Penalty has been increased</li> </ul>
Catching, taking, selling, purchasing, possessing, and transporting dolphins, whales, and porpoises	<b>FAO 185 as amended by FAO 185-1</b> <ul style="list-style-type: none"> <li>Catching, taking, selling, purchasing, possessing, and transporting dolphins, whales, and porpoises</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of 6 months to 4 years or a fine of PhP500 to PhP5,000 or both</li> </ul>	<b>Sec. 97</b> <ul style="list-style-type: none"> <li>Fishing or taking of rare, threatened, or endangered species</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of 12 years to 20 years and/or a fine of PhP100,000.00 to PhP120,000.00</li> <li>Forfeiture of catch and the cancellation of fishing permit</li> </ul>	<ul style="list-style-type: none"> <li>Penalty has increased</li> <li>Additional penalty</li> </ul>

(continued)

Table 14. (continued)

Illegal fishing activity	Prior to RA 8550		Provisions of RA 8550 (and related issuances)		Comment
	Offense	Penalty	Offense	Penalty	
Taking or catching, selling, purchasing, possessing, transporting, and exporting of whale sharks and manta rays			<b>FAO 193</b> ♦ Taking or catching, selling, purchasing, possessing, transporting, and exporting of whale sharks and manta rays	♦ Imprisonment of 6 months to 4 years or a fine of PhP500 to PhP5,000 or both	♦ New FAO based on Fisheries Code
Importation and/or possession of live piranha	<b>FAO 126</b> ♦ Importation and/or possession of live piranha	♦ Imprisonment of 6 months to 4 years			♦ FAO has not been repealed
Collecting, gathering, utilizing, possessing, transporting, disposing of marine turtles, turtle eggs, or any of its products, except in Reg. 9 and 12	<b>MNRAO No. 12, s1975</b> ♦ Collecting, gathering, utilizing, possessing, transporting, disposing of marine turtles, turtle eggs, or any of its products, except in Reg. 9 and 12	♦ Imprisonment of not more than 6 years or a fine of PhP600 or both			♦ FAO has not been repealed
Gathering, catching, taking, removing marine tropical or aquarium fishes without permit	<b>FAO 124 as amended by FAO 148</b> ♦ Gathering, catching, taking, removing marine tropical or aquarium fishes without permit	♦ Imprisonment of 8 to 10 years			♦ FAO has not been repealed
Gathering and farming seaweed without license or permit	<b>FAO 108 as amended by FAO 146</b>	♦ Imprisonment of 6 months to 4 years or a fine of PhP500 to PhP5,000 or both			♦ FAO has not been repealed
Conversion of mangroves			<b>Sec. 94</b> ♦ Conversion of mangroves into fishponds or for any other purposes	♦ Imprisonment from 6 years and 1 day to 12 years and/or a fine of PhP80,000 ♦ Compensation for restoration or rehabilitation	♦ New prohibition

(continued)

Table 14. (continued)

Illegal fishing activity	Prior to RA 8550		Provisions of RA 8550 (and related issuances)		Comment
	Offense	Penalty	Offense	Penalty	
Fishing in overfished area			<b>Sec. 95</b> <ul style="list-style-type: none"> <li>Fishing in overfished area</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment from 6 months and 1 day to 6 years and/or a fine of PhP6,000</li> <li>Forfeiture of the catch and cancellation of fishing permit or license</li> </ul>	♦ New prohibition
Fishing during closed season			<b>Sec. 95</b> <ul style="list-style-type: none"> <li>Fishing during closed season</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of 6 months and 1 day to 6 years and/or a fine of PhP6,000 and forfeiture of the catch and cancellation of fishing permit or license</li> </ul>	♦ New prohibition
Gathering and marketing of shellfish			<b>Sec. 103</b> <ul style="list-style-type: none"> <li>Taking, selling, transferring, or having in possession any sexually mature shellfish and shell fish which are below the minimum size or above the maximum quantities for the particular species</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of 1 month and 1 day to 6 months and/or a fine of PhP2,000 to PhP10,000</li> <li>The Secretary of the Department of Agriculture is empowered to impose an administrative fine of not more than PhP10,000.00 and/or to cancel the fishing permit or license</li> </ul>	♦ New prohibition
Obstruction of defined migration paths			<b>Sec. 105</b> <ul style="list-style-type: none"> <li>Obstruction of defined migration paths</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of 7 to 12 years and/or a fine of PhP50,000 to PhP100,000, cancellation of permit/license if any, and dismantling of obstruction</li> </ul>	♦ New prohibition
Fishing beyond catch ceiling			<b>Sec. 101</b> <ul style="list-style-type: none"> <li>Fishing beyond catch ceiling</li> </ul>	<ul style="list-style-type: none"> <li>Imprisonment of 6 months and 1 day to 6 months and/or a fine of PhP50,000,</li> </ul>	♦ New prohibition

(continued)

Table 14. (continued)

Illegal fishing activity	Prior to RA 8550		Provisions of RA 8550 (and related issuances)		Comment
	Offense	Penalty	Offense	Penalty	
				and forfeiture of the catch, and fishing equipment used, and revocation of license	
Failure to comply with minimum safety standards			<b>Sec. 103</b> ♦ Failure to comply with minimum safety standards	♦ The owner and captain of the fishing vessel is prevented from continuing with the fishing activity and the license to operate the commercial fishing vessel shall be suspended until the safety standard has been complied with	♦ New prohibition
Failure to conduct a yearly report on all fishponds			<b>Sec. 103</b> ♦ Failure to conduct a yearly report on all fishponds	♦ The FLA is immediately cancelled ♦ If the offender is the owner of the fishpond, the following penalties are subscribed: (1) first offense, a fine of PhP500.00 per unreported hectare; (2) subsequent offenses, a fine of PhP1,000.00 per unreported hectare	♦ New prohibition

**Q** RA 8550 provides that some FAOs are to be revised or amended accordingly. What rule should be followed in the interim and what penalties should be imposed?

**A** While some FAOs are being revised, the subsisting ones should be followed except that the penalties imposed must already be updated to reflect those provided in RA 8550. The new FAOs issued by the DA-BFAR are:

- FAO 195. Rules and regulations governing importation of fresh/chilled/frozen and fishery aquatic products;
- FAO 196. Guidelines on the creation and implementation of FARMCs;
- FAO 197. Rules and regulations governing the lease of public lands for fishpond development;
- FAO 198. Rules and regulations on commercial fishing;
- FAO 199. Guidelines on fish transshipment;
- FAO 200. Guidelines in implementing Sec. 87 (Poaching in Philippine Waters) of the Philippine Fisheries Code of 1998;

- FAO 201. Ban on fishing with active gear;
- FAO 202. Ban on coral exploitation and exportation;
- FAO 203. Ban on fishing by means of *muro-ami* and the like destructive to coral reefs and other marine habitat;
- FAO 204. Restricting the use of superlights in fishing;
- FAO 205. Price list of tilapia fingerlings and breeder and carp fingerlings for sale by the BFAR.

Q

**What types of fishing gear are banned from operation?**

A

The Fisheries Code and several administrative issuances (FAOs) ban specific types of fishing gear. One method banned according to Sec. 92 of the Fisheries Code is that of *muro-ami* and other similar methods and gear destructive to coral reef and other marine habitat. The following gear are also banned, either totally or in relation to specific areas or fishing practices:

- ♦ ***Pantukos***, defined as a tuck seine operated from two boats during moonless nights for catching *siliniasi* (fry or young of fish belonging to the family Clupeidae, sardines, and herring) whereby schools of fish are driven into the net by a cordon of driver boats. The prohibition is specifically for the operation of *pantukos* with the use of lighted torch (*waswas*) and/or the use of kerosene, crude oil, gasoline, or any flammable substance poured on any water area and ignited to scare or drive the fish towards the gear (FAO 122, s1977).
- ♦ ***Muro-ami***, or drive-in net, defined as a Japanese fishing gear used in reef fishing which consists of a movable bag net and two detachable wings effecting the capture of fish by spreading the net in arc form around reefs and shoals. With the aid of scaring devices, a cordon of fishers drives the fish from the reefs toward the bag portion of the whole net. ***Kayakas***, a local version of the *muro-ami* but smaller in size uses bamboo or wood as scare devices aside from coconut or other leaves or materials as scarelines to drive fish out of the coral reefs. Use of said gear is prohibited in all Philippine waters (FAO 203, s2000).
- ♦ ***Hulbot-hulbot***, a fishing gear consisting of a conical shaped net with a pair of wings, the ends of which are connected to two ropes with *buri*, plastic strips, or any similar materials which, with hauling ropes passing through a metallic ring permanently attached to a tom weight, serve as scaring or herding device when hauled into a fishing boat. The prohibition is limited to the use of such gear with fine-meshed nets less than 3 cm within a distance of 7 km and using fishing boats more than 3 GT from the shoreline of all coastal provinces. For provinces comprising several islands or islets, the 7-km distance shall be measured perpendicularly from the shorelines of such islands or islets, and in the case of a

group of islands or islets where the distance between islands or islets is 14 km or less, the group shall be treated as one island or islet, and the 7-km distance shall be reckoned from the outer shorelines of such group of islands or islets (FAO 164, s1987).

- ♦ **Tuna purse seine** nets with mesh size less than 3.5 cm are prohibited from being operated in Philippine waters (FAO No. 188, s1993).
- ♦ ***Pa-aling*** refers to a fishing gear consisting of a net set at coral or shoal reef areas whereby fish are driven towards the net by means of air bubbles produced by compressors. FAO 190, s1994 defines as unlawful the use of commercial *pa-aling* within municipal waters as defined in the LGC; the water jurisdiction of the PCSD under RA 7611; the water area east of 119°30', south of 13°00' and north of 10°30'; and fish sanctuaries, protected areas, and marine parks and reserves.

**Q**

Aside from those listed above, RA 8550 prohibits the use of the following gear in municipal waters:

**A**

- ♦ **Commercial trawls and purse seines** are generally prohibited from operating within a distance of 15 km from the shorelines of all municipalities and cities of the Philippines. However, the operation of small and medium-sized commercial trawl and purse seines may be allowed within 10.1 to 15 km from the shorelines by the chief local executive of municipalities and cities through an appropriate ordinance and under the four conditions mentioned on p. 83 and 85.
- ♦ **Active gear** include fishing gear “characterized by gear movement, and/or the pursuit of the target species by towing, lifting, and pushing the gear, surrounding, covering, dredging, pumping, and scaring the target species to impoundment; such as, but not limited to, trawls, purse seines, Danish seines, ring nets, bag nets, drive-in net or *pa-aling*, round haul seine and motorized push net ” (FAO 201, s2000). Active gear *do not include* gear used by the fisherman (without boats) such as cast net, spear, crab/shrimp lift net, hook and line, pole and line, multiple handline, troll line, jig, man pushnet, cover pot, scoop net/seine, bottom and drift gill net, drift filter net, *kitang* long line, and beach seine.

**Q**

Who has jurisdiction over the enforcement of fishery and environmental laws within municipal waters?

**A**

Both the LGUs and national law enforcement agencies such as the PNP-MARIG and the PCG. Under Sec. 17 of the LGC, enforcement of fishery laws within the territorial waters of a municipality has been devolved to the respective municipal or city governments.

Sec. 16 of the Fisheries Code also states that the LGU should enforce ALL fishery laws, rules, and regulations as well as valid fishery ordinances. The Mayor may deputize fish wardens and other enforcement groups such as *Bantay Dagat* but ensure that these individuals have undergone proper training with the BFAR. The tenure of deputies is co-terminus with the Mayor's term of office.

Enforcement of environmental laws such as that of community-based forestry laws, small-scale mining laws, pollution control laws, and other laws on the protection of the environment has been devolved from the DENR to the provincial governments (also Sec. 17 of RA 7160). Nevertheless, the SUPERVISORY function of the DENR still remains.

The *Punong Barangay* is also authorized to enforce all laws related to pollution control and for the protection of the environment (Sec. 389(a)(9) of the LGC).

**Q**

**Who are deputized to enforce fishery laws, rules, and regulations?**

**A**

The law enforcement officers of the DA, PN, PCG, PNP, PNP-MARIG, law enforcement officers of the LGUs, other government law enforcement agencies, and competent government officials and employees, *Punong Barangays* and officers and members of fishers' associations who have undergone training on law enforcement designated in writing by the Department as deputy fish wardens (Sec. 124, RA 8550).

**Q**

**Who qualifies for deputation as fish wardens and what is the legal basis for such?**

**A**

Municipal mayors, duly elected *barangay* officials, and officers of duly registered fishers' associations. The legal basis is Letter of Instruction (LOI) 550 and LOI 929. In addition, other competent government officials and employees, *Barangay Captains*, and officers and members of fishers' associations who have undergone training on law enforcement may be designated in writing by the Department pursuant to Sec. 124 of RA 8550. Included are FARMC and *Bantay Dagat* members.

It must be noted that the validity of a deputation is not provided for by the law, and is not indefinite; the term of deputation must therefore be subject to such terms and conditions imposed by the deputizing authority (DA-BFAR) or may be co-terminus with the Mayor.

**Q** What is the legislation that defines the legal mandate of a *Bantay Dagat* Officer or member?

**A** There is no single legislation or a specific order that explicitly defines the legal mandate of *Bantay Dagat* officers or members. However, the legality of *Bantay Dagat* officers or members can be deduced from various laws and regulations, to wit:

- ♦ The provision for citizen's arrest under the Rules on Criminal Procedure permits the *Bantay Dagat* officers and members to arrest and seize illegal fishers;
- ♦ The basic human rights of an individual to protect himself and that of his surroundings from threats;
- ♦ The role of NGOs and POs to promote self-help;
- ♦ Deputation of certain government agencies (BFAR, DENR, DA) to enforce regulations in their behalf;
- ♦ *Barangay* may form community brigades (Sec. 391 (16) LGC); and
- ♦ The community has the duty to preserve the environment.

**Q** How are the responsibilities of the Maritime Industry Authority (MARINA), the PCG, and the PNP-MARIG delineated with respect to fishing?

**A** As stated in the Memorandum of Agreement (MOA) between the PCG, PNP-MARIG, and MARINA on 17 October 1996, establishing the Tripartite Committee on Maritime Safety, the said agencies shall cooperate, coordinate, and complement functions in the following areas:

- ♦ On vessel safety:
  - The MARINA shall be the lead agency in the determination, formulation, and implementation of policies, rules, and regulations pertaining to vessel safety;
  - The PCG shall be the lead agency in the enforcement of vessel safety policies, rules, and regulations and shall inform the MARINA of any infraction or violation of vessel safety policies, rules, and regulations; and
  - The PNP-MARIG shall inform the MARINA and PCG of any infraction or violation of vessel safety policies, rules, and regulations that comes to their attention and *vice-versa*.
- ♦ On search and rescue (SAR)
  - The PCG shall be the lead agency in the determination, formulation, and implementation of SAR plans, programs, and policies including the conduct of SAR and relief operations;



- The MARINA shall be the lead agency in providing survivor assistance with respect to passenger insurance claims, compensation, and other benefits due the survivors and shall assist the PCG in the acquisition and enhancement of SAR vessels and equipment through facilitation of foreign grants or loans for the said purpose; and
- The PNP-MARIG shall assist the PCG in the conduct of SAR operations and shall likewise assist the PCG in the acquisition and enhancement of SAR vessels and equipment through facilitation of foreign grants or loans for the said purpose.
- ◆ On marine environmental protection
  - The PCG shall be the lead agency in the determination, formulation, and implementation of policies, rules, and regulations pertaining to marine environmental protection including the conduct of oil spill prevention, mitigation, and control operations;
  - The MARINA and PNP-MARIG shall inform the PCG of any incident of marine pollution that comes to their attention.
- ◆ On law enforcement at sea
  - The PCG and the PNP-MARIG shall complement each other in the conduct of operations against smuggling, illegal fishing, and illegal logging. In addition, the PNP-MARIG shall be the lead agency in the prevention and control of criminality at sea particularly crimes falling under the Revised Penal Code and in the subsequent prosecution of violators;
  - The PNP-MARIG shall perform all police functions “over Philippine territorial waters and rivers, coastal areas from the shoreline to 1 mile inland to include ports and harbors and small islands of 2 miles in length or diameter with less than 1,000 population...” (RA 6975).
  - The PCG shall assist the PNP-MARIG while the MARINA shall inform the PNP-MARIG and the PCG of any incidence of criminality at sea that comes to their attention.

**Q**

**Whose responsibility is the examination of dynamited fish?**

**A**

Certified Fish Examiners (the minimum qualifications are that they are college graduates and working in the government; not necessarily DA personnel) trained by the BFAR to examine samples of fish suspected to have been caught by the use of explosives and act as expert witness in legal proceedings.

After a fish examination has been done by personnel of any of the following agencies: PCG, National Prosecution Service, Bureau of Customs, Environmental Management Bureau (EMB), PPA, and PNP-MARIG, a BFAR fish examiner if present, shall be allowed to conduct another fish examination from the apprehended lot whose findings shall be final. In case the apprehending party has no qualified fish examiner or no available BFAR fish examiner, it may request for other fish examiners from the aforementioned agencies.

**Q** **When can a boat allegedly used in dynamite fishing be released?**

**A** The court (Roldan vs. Arca [65 SCRA 336]; Executive Circular No. 130 [1967]) determines the fate of the boat seized and impounded as evidence. When no criminal case is filed the boat is released.

**Q** **Is it unlawful to burn or destroy apprehended illegal fishing gear?**

**A** Yes. The penalties provided by law (Fisheries Code, DA-DAO No. 3, and appropriate FAOs) are imprisonment and/or fine, cancellation of permits or licenses, and the seizure of fishing boats and illegal fishing apparatus pending criminal proceedings. The LGC authorizes the LGUs to impose only fines and/or imprisonment for violation of ordinances. There is no law authorizing the burning and destruction of apprehended illegal fishing gear. Secondly, an apprehension does not necessarily connote conviction. Unless the apprehended persons are declared guilty by a final judgment of the court, they are presumed innocent. Thus, their fishing apparatus should be preserved until the court orders its destruction. The fishing apparatus serves as vital evidence in court.

**Q** **Who shall take responsibility for impounded fishing gear and paraphernalia? What if there is no PNP-MARIG station in the vicinity?**

**A** According to the National Law Enforcement Coordinating Committee MOA of September 1995, the PNP-MARIG shall take custody of impounded fishing boats including fishing gear and other paraphernalia used in illegal fishing, when applicable, pending the final resolution of the criminal/administrative case thereon.

The same MOA states that the Chief of the PNP may authorize in writing other PNP units to take responsibility for impoundment as well as general enforcement of fishery laws.

**Q** In the absence of duly organized *Bantay Dagat* and/or law enforcement agencies, can ordinary citizens make arrests and seizures of illegal fishing activities?

**A** Yes. Ordinary citizens may employ citizen's arrest. The citizen must approach the offender and state that the authority to arrest is provided for by Rule 113, Sec. 9 of the Rules of Court under the Rules on Criminal Procedure, as amended. The person making the arrest must also state the cause of arrest.

However, ordinary citizens should be wary of making "arrests" especially if the offending party is armed. The citizen is encouraged to seek the assistance of law enforcement agents or their deputies in order to safeguard their lives.

**Q** When is a warrantless arrest valid?

**A** The 1988 Rules on Criminal Procedure allow arrest EVEN without any warrant in at least five instances:

- ◆ when a person has just committed a crime;
- ◆ when a person is attempting to commit a crime;
- ◆ when a person is actually committing a crime;
- ◆ when the policeman or any person has personal knowledge of the facts that the person to be arrested committed the crime; and
- ◆ when the person to be arrested is an escaped prisoner or detainee.

**Q** What procedures should follow a warrantless arrest?

**A** An inquest is conducted if the warrantless arrest was conducted because the crime was committed in front of the arresting officer or if the arresting officer has personal knowledge of the facts indicating that the person to be arrested has committed the offense charged. Inquest commences upon the receipt of an inquest officer of the complaint and referral documents. In illegal fishing cases, these may include photos of confiscated fish and/or explosives, BFAR certification, and chemistry report. The inquest has to be terminated within the period prescribed by the Penal Code as follows:

- ◆ within 12 hours for light offenses;
- ◆ within 18 hours for less grave offenses; and
- ◆ within 36 hours for grave offenses.

**Q** Can monies accruing from the imposition of penalties for both national and local laws be used to maintain local enforcement task forces?

**A** No. Unless expressly provided for by the law imposing the fine, all fines imposed by the court are taken and deposited with the National Treasury, and do NOT go to the municipal coffers.

**Q** Where should cases of fishing violations be filed?

**A** Depending on the seriousness of the crime committed, the said complaint can be filed in either the Regional Trial Court (RTC), or the Metropolitan Trial Courts (MeTC), Municipal Trial Court (MTC), Municipal Circuit Trial Court (MCTC), or Municipal Trial Court in Cities (MTCC). If the penalty is imprisonment for 6 years and above irrespective of the amount of fine, the case is filed in the RTC. If the penalty is imprisonment not exceeding 6 years irrespective of the amount of fine, and regardless of other imposable accessory or other penalties, including civil liability AND in offenses involving damage to property through criminal negligence, the case is filed in the MeTC, MTC, or MCTC. If the penalty is only a fine, the case is filed in the RTC if the amount is PhP4,000 and above. But if the fine does not exceed PhP4,000, the case is filed in the MTC, MTCC, or MCTC (RA 7691).

## MANGROVE FORESTS AND FISHPONDS

**Q** Who has jurisdiction over mangrove resources?

**A** The DENR, as provided for in PD 705 or the Forestry Code of the Philippines. Various issuances enacted pursuant to PD 705 include: DAO 15, s1990, on mangrove conversion and conservation; DAO 96-29, s1990, on awarding of mangrove stewardship contracts; and DAO 76, s1987, on establishment of buffer zones in mangrove areas.

The LGUs were also given jurisdiction over specific aspects of mangrove management including that of conservation, as well as implementation of community-based forestry projects (including integrated social forestry projects) subject to the supervision, control, and review of the DENR (RA 7160, Sec. 17(2)(i), (ii)). The pertinent guidelines to effect the devolution of these functions are spelled out in DAO 30, s1992. Community-based forestry projects refer to DENR development projects involving local communities, which include the integrated social forestry projects, family, and community contract

reforestation, forestland management agreements, community forestry programs, and other similar projects. On the other hand, the management, protection, and development of all other areas outside of communal forests remain with the DENR.

**Q What tenorial instrument is available for communities who wish to manage their mangrove resources?**

**A** The Community-based Forest Management Agreement or CBFMA. EO 263 (1995) and its IRR as outlined in DAO 96-29 provide for this. The CBFMA integrates all other forms of tenorial instruments developed by the DENR including the Mangrove Stewardship Agreement and the Community Forest Management Agreement (CFMA).

**Q What are some of the incentives provided to people's organizations (POs) for participating in CBFM programs?**

**A** Some incentives are: i) exemption from paying rent; ii) exemption from payment of forest charges as per RA 7161; iii) consultation by government on all proposed projects affecting CBFMA area; iv) preferential access to DENR financial assistance; and v) all incomes and proceeds from sustainable management of forest resources will redound to the benefit of the CBFMA holder.

**Q Is the cutting of mangroves prohibited in areas that were replanted by communities?**

**A** Yes. Cutting of all mangrove species is prohibited under the RA 7161: "An Act incorporating certain sections of the National Internal Revenue Code of 1977, as amended, to PD 705, as amended, otherwise known as the 'Revised Forestry Code of the Philippines' and providing amendments thereto by increasing the forest charges on timber and other forest products." The law does not provide for any exemption.

**Q Is it all right to flood a pond and keep it flooded until the mangroves die and then clear the pond?**

**A** No. Flooding ponds in ways that kill mangroves is illegal and amounts to the same thing as cutting the trees down. Anyone who does this is liable for prosecution.

**Q** Is it proper to girdle mangrove trees in order to remove them?

**A** No. Girdling trees (cutting the bark completely around the tree) is the same as cutting because it results in the death of the tree. Therefore, the same legal penalties apply to girdling.

**Q** Can a dike be constructed around mangroves in a development area?

**A** No. Any development requires the issuance of the appropriate clearances from the BFAR and the DENR. The BFAR must first certify that the area involved has been issued an appropriate FLA while the DENR must ensure that an ECC has been applied for and complied with.

**Q** What are the violations of PD 705 (Forestry Law) and what are the respective penalties?

**A**

Act/Offense	Penalty
Cutting, gathering, and/or collecting timber or other forest products without authority	<ul style="list-style-type: none"> <li>The penalty for violation of the law is imprisonment of 2-20 years depending on the value of timber cut, gathered, or collected.</li> </ul>
Possession of timber or other forest products without legal documents as required under existing forest laws and regulations	<ul style="list-style-type: none"> <li>The penalty is imprisonment of 2-20 years depending on the value of timber possessed.</li> </ul>
Unlawful occupation or destruction of forestlands	<ul style="list-style-type: none"> <li>The penalty consists of fine ranging from PhP5,000 to PhP20,000 and imprisonment ranging from 6 months to 2 years, and payment of 10 times the rental fees and other charges, which would have accrued.</li> </ul>

**Q** The DA-BFAR is responsible for the leasing of fishponds on government land (Fishpond Lease Agreements or FLAs). Has the issuance of FLAs been devolved to the LGUs?

**A** No, the issuance of FLAs has not been devolved to the LGU. This power is still retained by the DA-BFAR as stated in Sec. 45-46 of the Fisheries Code.

**Q What are illegal fishponds?**

**A** Illegal fishponds can be any of three things: 1) fishponds situated in areas which are released for fishpond development but operate without FLAs, 2) fishponds situated in areas not released by the DENR for fishpond development, and 3) fishponds converted from mangrove swamps after the issuance of DAO 15, s1990, which prohibits further conversion of thickly vegetated mangroves to fishponds.

The illegality of item 1) is borne by FAO 60, s1960, FAO 125, s1979, and Sec. 24 of the Fisheries Code. These provide the rules and regulations governing conversion of ordinary fishpond permits (1 year) into 25-year FLAs, including eligibility for filing, where and how applications are filed, terms and conditions of the FLAs, rentals and surcharges, and grounds for termination, cancellation, or rescission of FLA. Fishponds that operate in the BFAR's area of jurisdiction without FLAs violate these laws and AOs. In this case, the Regional Fishery Officer should be alerted.

Item 2) is illegal because it is a violation of Ministry of Natural Resources (MNR) AO No. 3. Item 3) is illegal because it is a violation of DAO 15, s1990.

**Q Who has jurisdiction over illegal fishponds?**

**A** Fishponds located in areas which have been released by the DENR for fishpond development but which operate without FLAs are within the jurisdiction of BFAR. BFAR, which has administrative jurisdiction and management over FLAs, can apply sanctions as provided for in FAO 197, s2000, including forfeiture of all improvements introduced for fishpond developments, if the person does not have a lease or an application for a lease; doubling of rental charges, if the person is an applicant for FLA; and prosecution, upon failure or refusal to pay the necessary charges.

Fishponds sited in areas which *have not been released* for fishpond development, including those which have been converted after the issuance of DAO 15, s1990, which prohibits further conversion of thickly vegetated mangroves into fishponds, are within the jurisdiction of the DENR, specifically the Lands Management Services of the DENR Regional Office for public lands, and the Forest Management Bureau for forestlands.

**Q What procedures are in place to legalize illegal fishponds?**

**A** Any person illegally occupying or introducing improvements in areas released for fishpond development without a lease, prior to the effectivity of FAO 197, shall be penalized

through forfeiture of all the improvements introduced thereon in favor of the government and shall vacate the area immediately. Provided, however, that if the person occupying said area is an applicant, he shall be charged double the ordinary rental charges.

Fishponds located in timberlands not released to the BFAR are in violation of PD 705, specifically, prohibition against unauthorized cutting or gathering of mangroves and unlawful occupation or destruction of forestlands. No procedures for legalizing these fishponds exist.

**Q**

**What is the process for reversion of abandoned, unutilized, or undeveloped fishponds?**

**A**

Fishpond areas covered by an existing FLA which have been determined jointly by the DA, DENR, and LGUs concerned as abandoned, undeveloped, or underutilized portions after 5 years from the issuance of the FLA, can be reverted to their original mangrove state and that necessary steps should be made to restore such areas to their original mangrove state (Sec. 24, FAO 197).

**Q**

**Are fishponds exempted from agrarian reform?**

**A**

Yes, fishponds are exempted from the Comprehensive Agrarian Reform Law (CARL). Sec. 2 of RA 7881, amends Sec. 10 (b) of the CARL, entitled Exemptions and Exclusions, to read: "private lands, actually, directly and exclusively used for prawn farms and fishponds shall be exempt from the coverage of this Act: Provided, that said prawn farms and fishponds have not been distributed and Certificate of Land Ownership Award issued to agrarian reform beneficiaries under the Comprehensive Agrarian Reform Program."

**Q**

**Are ECCs necessary for fishponds?**

**A**

Yes. Fishponds, as defined by DAO 34, s1991, are aquaculture activities *within the mangrove ecosystem* and include prawn and shrimp culture, seaweed farming, oyster, mussel and clam culture, saltbeds, and other fishpond production activities. Fishpond development thus imperils the extraction of mangrove products, which are classified as an environmentally critical project (ECP) by DAO 96-37 and located in an environmentally critical area (ECA), which is the mangrove itself. FAO 197 likewise provides for an ECC as one of several final requirements for the issuance of a lease.



**Q What is the coverage of the ECC for fishponds?**

**A** All existing fishponds and new fishpond development projects regardless of area, situated in alienable or disposable lands or in mangrove forestlands, which have been zonified as suited for such activity, are covered by the EIS System. Existing fishponds, which were operational prior to 1982, are not covered by the EIS System (Sec. 20, Art. II, DAO 96-37, s1996), except in cases where their operations are expanded in terms of daily production capacity or area, or the process is limited. Further, fishpond development projects shall be considered critical if such will involve utilization of areas equal to or greater than 25 ha (par. 3, B, National Environmental Protection Council (NEPC) Office Circular No. 3, s1983). Fishponds are also subject to penalties or fines under DAO 96-37, s1996.

**Q Can an FLA leaseholder develop an area (within the designated FLA) which was left abandoned for more than 5 years after the granting of such lease and for which mangroves have started growing again?**

**A** No. First, the terms of the FLA state that all improvements to fishponds (and shrimp ponds) must be made within the first 5 years of development. “Developed” means that the pond has been improved with dikes, a level bottom, and any other necessary features to the point where it is able to support the routine production of fish, shrimp, or other animals. Areas that were not developed within that period are automatically excluded from the FLA and in cases where mangrove vegetation is present, becomes ineligible for fishpond development.

The second reason why the remaining area cannot be developed has to do with the presence of mangrove trees. The DENR issued Memo Circular No. 5 in 1990 that required an FLA holder to apply for and be granted a permit for the removal of any mangrove trees on land that was to be converted to fishponds. The DENR will only issue such a permit in cases where it determines that the area covered is less than 10 percent of the total area. Since the remaining area is covered with trees it would not qualify for a permit and it would therefore be illegal to cut down or harm the trees in any manner.

LGUs can write a letter to the DENR to report the existence of abandoned fishponds in their jurisdiction.

**Q** Can an FLA be subleased or its rights transferred to another lessee?

**A** The subleasing of FLAs is not permitted. Transferring of FLA rights is only possible with written approval by the DA (Sec. 46, Fisheries Code).

**Q** Is there any way for a fishpond development in a mangrove wilderness or reservation to be issued an FLA?

**A** No. That is not legally possible.

**Q** Is it legal to develop a “family fishpond” without an FLA?

**A** It depends on the location of the fishpond. If the land on which the fishpond is erected is private land, then the landowner has complete control over what he does within his own property. If the land is public land, i.e., not privately owned, then it is illegal to develop any type of fishpond without an FLA.

**Q** Is it legal to build fishponds in areas of public land not zoned or classified for fishpond development?

**A** No, it is not legal to build a fishpond in any area (other than those that are alienable and disposable) that is not zoned or classified for fishpond operations.

In addition, it is not legal for any person to sell those areas for such purposes. Some people feel that if they pay municipal taxes on land or if they extract resources from a particular piece of land, they already own the area and thus can sell them for such purpose as they see fit. Unfortunately, since these lands are classified as public land, any person who sells it has no right to do so; regardless of whether he had paid taxes on the areas or not. The seller should be able to produce the land title for the area he is selling before a purchase can be considered.

**Q** An ordinance was enacted by a municipal council, and approved by the Provincial Board, imposing an annual tax for the operation of fishponds. Does the ordinance need approval from the BFAR?

**A** No. The operation of fishponds is a fishery privilege which the local government may deem wise to impose a fishery rental, fee, or charge in accordance with the Fisheries Code

and the LGC. If the fishpond is situated in private land, the owner may be charged a real property tax based on current land valuation; otherwise, a business tax may be imposed.

**Q** If the seller has a tax declaration on a zoned fishpond area, is he allowed to sell it for development?

**A** No person can sell land that is zoned for fishpond development. Land that is zoned for fishpond development is not alienable and disposable and therefore cannot be owned, bought, or sold, regardless of whether the seller has paid taxes on the land or not. In order to develop an area for any kind of aquaculture pond, the developer should first apply for an FLA from the BFAR. Afterwards he must apply for an ECC and if there are mangroves present on the land, he must apply to the local DENR-CENRO (Community Environment and Natural Resources Office) for a permit to cut the mangroves prior to doing so. It is not legal to cause the mangroves to die prior to applying for the permits in order to make the land appear barren.

**Q** What is the procedure for disposition of collateralized fishponds?

**A** In the event of default in the payment of the loan, the assignee-bank enforces the conditions of the assignment of rights. The bank shall have a period of 5 years thereafter to hold the area covered by the lease for the purpose of liquidating the debt, disposing of the improvements therein, and negotiating for the transfer of assignment of rights to other qualified transferees who shall comply with the requirements of the lessor. However, if after the period of 5 years and no transfer of rights has been effected, then the area shall automatically revert to the lessor for proper disposition, subject to the rights of the assignee bank.

## MARINE PROTECTED AREAS

**Q** What are marine protected areas under the NIPAS Act and how do they differ from marine reserves, refuges, and sanctuaries declared by cities and/or municipalities?

**A** Marine protected area (MPA) is a generic term that refers to a special management regime for a coastal or marine environment. MPAs proclaimed under NIPAS and governed by the PAMB, are “*outstanding remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animals, biogeographic zones and related ecosystems, whether terrestrial, wetland or marine.*” Sec. 3 of the NIPAS

Act enumerates the following categories of protected areas: a) strict nature reserve; b) natural park; c) natural monument; d) wildlife sanctuary; e) protected landscapes and seascapes; f) resource reserve; g) natural biotic areas; and other categories established by law, conventions, or international agreements to which the Philippine Government is a signatory.

Other types of marine protected areas including marine reserves, refuges, and sanctuaries are established through city or municipal ordinances. These types of MPAs are part and parcel of municipal waters as opposed to protected areas proclaimed under NIPAS, which are excluded from municipal waters. Table 15 shows how these types of marine protected areas differ.

**Table 15. Differences between marine protected areas proclaimed under NIPAS and fish reserves, refuges, and sanctuaries established through city or municipal ordinance.**

Establishment	Congressional Act	City/Municipal Ordinance
Parameters	Marine protected areas under NIPAS	Fish reserves, refuges, and sanctuaries established through city or municipal ordinance
Management body Coverage	PAMB with DENR as Chair - Excluded from municipal waters	City/Municipality - At least 15 percent where applicable of the total coastal areas in each municipality be automatically designated as fish sanctuaries - Included as part of municipal waters
Requirements prior to establishment	- Technical review - Public notice of the proposed action - Public hearings and consultations with LGUs, communities, including its indigenous people	Public consultations
Purpose	Biodiversity conservation	Food security - Special or limited use, for educational, research, and/or special management purposes - Biodiversity conservation - Ecotourism
Funding	Through the Integrated Protected Areas Fund (IPAF)	City/municipality - LGU funds - External funding sources

**Q**

**Who has jurisdiction over areas designated as protected areas - the PAMB (under the NIPAS Act) or the LGU?**

**A**

The PAMB. Sec. 10 of RA 7586 (NIPAS Act) provides for the administration and management of the NIPAS, “*the NIPAS is hereby placed under the control and*

*administration of the DENR. For this purpose, there is hereby created a division in the regional offices of the Department to be called the Protected Areas and Wildlife Division in regions where protected areas have been established, which shall be under the supervision of a Regional Technical Director; and shall include subordinate officers, clerks, and employees as may be proposed by the Secretary, duly approved by the Department of Budget and Management, and appropriated for by Congress.”* Sec. 11 provides for a Protected Area Management Board (PAMB) which shall be established for each protected area. Each PAMB includes several nominees from various LGUs, including one representative from the autonomous regional government, if applicable; the Provincial Development Officer; one representative from the municipal government; one representative from each *barangay* covering the protected area; one representative from each tribal community, if applicable; and, at least three representatives from NGOs/local community organizations; and, if necessary, one representative from other departments or NGAs involved in protected area management. In marine protected areas, the DA-BFAR should be a member of the PAMB; however, no administrative issuances have been enacted to effect this.

Sec. 7 of DAO 25 (s1992), or the IRR for RA 7586, further provides for a two-tiered management planning system, wherein *“NIPAS site management planning and implementation shall be undertaken by protected area staff, which may include an NGO component, by technical specialists and representatives of local communities within and near the site, following a general planning strategy prepared at the national level. The protected area management plan shall be contained within a management manual as provided by Section 9 of the Act. Protected area management shall be under the direction of a site specific Protected Area Management Board as provided in Chapter V of this Order and NGOs are expected to play an important role in area management along with DENR staff.”*

**Q**

**What are the marine protected areas that have been initially identified and established under the NIPAS Act, and where are they located?**

**A**

See Table 16.

*Table 16. List of protected seascapes.*

Name of Protected Area	Region	Proclamation Number	Date Established	Area (ha)
Palaui Island Marine Reserve	2	447	08-16-1994	7,415
Batanes Protected Landscape and Seascape	2	335	02-28-1994	213,578
Masinloc and Oyon Bay Marine Reserve	3	2,123	08-18-1993	7,568
Tubbataha Reef National Marine Park	4	306	08-11-1988	33,200
Apo Reef National Park	4-B	868	02-20-1996	11,677
Taklong Island National Marine Reserve	6	525	02-08-1990	1,143
Sagay Protected Seascape	6	592	06-01-1995	28,300
Apo Island Protected Landscape and Seascape	7	438	08-09-1996	691
Guiuan Protected Landscape and Seascape	8	469	09-26-1994	60,448
Turtle Island Heritage Protected Area	9	MOA between Philippines and Malaysia	05-31-1996	1,740
Pujada Bay Protected Landscape and Seascape	11	431	07-31-1994	21,200
Sarangani Protected Seascape	11	756	03-05-1997	215,950
Tañon Strait Protected Seascape	7	1,234	05-28-1998	

**Q Does the NIPAS system apply only after the PAMB is formed?**

**A** No. Under the procedures for establishment of the NIPAS, the President identifies areas for inclusion in the NIPAS through a presidential proclamation. An interim PAMB is automatically created by the presidential proclamation, and the DENR Secretary officially appoints the PAMB members. This interim PAMB operates until Congress finally enacts a subsequent implementing law declaring the creation and operation of additional components to the NIPAS.

**Q Is there a criterion for or against choosing a densely populated area as part of a protected area? Are there guidelines on limiting the areas to be named as protected areas? Is there a criterion for exclusion of a city?**

**A** The NIPAS Law is silent about these criteria. However, criteria for evaluating the suitability of each area under the existing protected area categories are to be provided by the Secretary.

**Q** What should be done to facilitate the PAMB's management of large areas?

**A** As stated in DAO 92-25, protected areas with very large areas can form an Executive Committee (Execom) with functions to be decided by the PAMB.

**Q** What are the violations of RA 7586 (NIPAS Act) and what are the respective penalties?

**A**

Act/Offense	Penalty
Hunting, destroying, disturbing, or mere possession of any plants or animals or products without a permit	<ul style="list-style-type: none"> <li>• Penalty is imprisonment for not less than 1 year but not more than 6 years, or a fine of not less than PhP5,000 or more than PhP500,000 exclusive of the value of the things damaged, or both.</li> <li>• Eviction of the offender from the land.</li> <li>• Forfeiture of all mineral, timber, or any species collected or removed including all equipment, devices, or firearms used in connection therewith, and any construction or improvement made thereon by the offender.</li> <li>• If the offender is an association or corporation the president or manager shall be directly responsible for the act of his employees and laborers.</li> <li>• The DENR may impose administrative fines and penalties.</li> </ul>
Dumping of any waste products detrimental to the protected area, to the plants, and animals or inhabitants therein	<ul style="list-style-type: none"> <li>• Same as above.</li> </ul>
Use of motorized equipment without a permit	<ul style="list-style-type: none"> <li>• Same as above.</li> </ul>
Mutilating, defacing, or destroying objects of natural beauty, or objects of interest to cultural communities	<ul style="list-style-type: none"> <li>• Same as above.</li> </ul>
Damaging and leaving roads and trails in damaged condition	<ul style="list-style-type: none"> <li>• Same as above.</li> </ul>
Squatting, mineral locating, or otherwise occupying lands	<ul style="list-style-type: none"> <li>• Same as above.</li> </ul>
Constructing and maintaining any kind of structure, fence or enclosures, conducting any business enterprise without a permit.	<ul style="list-style-type: none"> <li>• Same as above.</li> </ul>

**Q Can the LGU create a fish sanctuary within its municipal waters without authority or approval from the DENR, BFAR, or any other national agency?**

**A** Yes, the LGU can create fish sanctuaries within its municipal waters without authority or approval from the DA-BFAR. Sec. 81 of the Fisheries Code states that the LGU, in consultation with the FARMCs, may establish fish refuges and sanctuaries.

In cases where the initiative to create a fish sanctuary emanates from the national government, permission has to be requested from the LGU as provided for by Sec. 27 of the LGC which states that *“no project or program initiated by NGA shall be implemented unless approved by the Sangguniang Bayan and appropriate consultations are made.”*

The establishment of fish sanctuaries within protected areas (RA 7586) in municipal waters needs authorization from the PAMB.

**Q May a *barangay* recommend the creation of a fish sanctuary?**

**A** Yes. The *Sangguniang Pambarangay* is empowered to submit to the *Sangguniang Panlungsod* or *Pambayan* such suggestions or recommendations as it may see fit for the improvement of the *barangay* or the welfare of the inhabitants thereof (Sec. 391, LGC). A resolution recommending the creation of a fish sanctuary may be passed by the *barangay* council and transmitted to the appropriate *sanggunian*.

**Q Is there a law or regulation governing the establishment, utilization, and management of artificial reefs (ARs) in municipal waters?**

**A** Yes, there is. The joint DENR-DA-DILG-DND Memo Order signed in July 2000 provides for the guidelines on the establishment, utilization, and management of ARs in municipal waters. The deployment of ARs is subject to the approval of municipal/city mayors via enactment of a special ordinance which specifies the terms and conditions of the permit and rental fees. Prior to approval, the proponent shall formally seek the technical assistance of the DA-BFAR and the DENR in determining the suitability of the deployment site based on the following criteria: (1) not less than 1 km away from natural reefs, if any, and 500 m away from existing ARs; (2) near alternative food sources such as seagrass beds and constructed on a flat, barren area of relatively good visibility and at a depth protected from wave action; and (3) non-obstructive to navigation and traditional fishing routes of local fishers.



Management and operation of ARs shall be the primary responsibility of the permittee who shall ensure that: (1) no commercial fishing occurs in the vicinity of the AR and 200 m away; (2) subsistence fishing with hook and line shall be subject to time and catch limitations; and (3) ARs are firmly anchored and that the “core zone” is properly demarcated using buoys or other suitable materials.

Prioritization in the granting of an AR permit is as follows: (1) resident municipal/city fisherfolk cooperative/organization; (2) resident municipal fisherfolk POs; and (3) provincial fishery associations/federations.

**Q Are national laws, e.g., Fisheries Code, applicable in protected areas?**

**A** All national laws are applicable in protected areas unless there is some direct conflict with the NIPAS Law.

The Fisheries Code as well as all FAOs enacted should be enforced in all waters of the Philippines including municipal waters and waters in protected areas.

**Q Do the LGUs have the authority to enforce all national laws in protected areas?**

**A** Yes, the LGUs can and should. They have been given jurisdiction by the LGC to enforce national laws in municipal waters including protected areas since the LGUs are also part of the PAMB. Coordination among members of the PAMBs and the LGUs must be strengthened to avoid conflicts.

**Q Who has the authority to file cases against violations done inside the protected areas, e.g., illegal gathering of corals or illegal fishing?**

**A** The fish wardens deputized by BFAR and DENR as well as national law enforcers have the authority to file cases against violators inside the protected area.

The DENR does its own deputation of protected area rangers called Deputized Environment and Natural Resources Officers (DENROs).

**Q In cases where the PAMB and the LGU do not agree on matters governing the protected areas, how is the conflict to be resolved?**

**A** Since majority of the PAMB members are representatives from LGUs and considering that the Board is mandated by law as the site-specific policy-making body of protected areas, the LGUs have greater influence in the decision-making process than the other representative groups. Therefore, the decision of the Board carries the majority vote of representatives from the LGUs.

It must be noted, however, that the legislative and taxation functions of the LGUs and the administrative authority of the PAMB have different legal bases, which are not necessarily in conflict. The LGUs can enact ordinances and impose taxes that shall be effective throughout their territorial jurisdiction, including that of protected areas, because these are functions guaranteed by the Constitution.

**Q Can the province overturn a municipality's decision to use a designated coastal area for tourism purposes?**

**A** No. (LGC Sec. 56 (c)). In relation to Sec. 17 (b) (2) (xi) and Sec. (b) (3) (xii), the reviewing power of the *Sangguniang Panlalawigan* under Sec. 56 of the LGC is limited to a determination of whether the ordinance or action of a municipality or component city is within the power conferred upon it by law (Sec. 5.6). Since a municipality is empowered to provide tourism facilities and attractions within its territory (Sec. 17), the *Sangguniang Panlalawigan* cannot overturn the municipality's action.

**Q Do the municipalities bordering a large protected area lose their jurisdiction over the municipal waters inside it?**

**A** Not really. Although the PAMB is mandated to manage the municipal waters included in the marine protected area, the LGUs do not entirely lose jurisdiction over their municipal waters in the marine protected area because of their membership in the PAMB and because they may still enforce national laws and enact local ordinances for as long as they are consistent with the approved management plan. All powers and functions, e.g., taxation, of LGUs in protected areas are still valid. However, all the local ordinances prior to the declaration of the area as a marine protected area have to be integrated into the management plan of the PAMB. Consequently, all the laws approved by the LGUs have to conform to the plan.

**Q Can the LGU apprehend fishers illegally fishing in protected marine waters?**

**A** Yes. Sec. 149 of the LGC authorizes the *Sangguniang Bayan* to prosecute any violation of applicable fishery laws. The LGU and any of its deputies can therefore apprehend fishers violating any ordinances or laws within its territorial jurisdiction. If the violation occurs within a marine protected area under the NIPAS Act, the LGU is likewise authorized to enforce the provisions of the Act but its law enforcement officers must be deputized by the PAMB. The national law enforcers such as the PNP-MARIG and the PCG may also apprehend illegal fishers.

**Q In a protected area where the PAMB has not yet been formed, can an LGU or group of LGUs proceed with their activities (e.g., development of CRM plans, establishment of marine sanctuaries)? Are existing municipal ordinances regulating the protection and use of municipal waters still valid after the PAMB has been formed?**

**A** Yes, if they are done pursuant to other legal mandates contained in other laws such as the LGC and the Fisheries Code. LGUs should initiate or continue to pursue the development of CRM plans, zoning the use of municipal waters, legislative actions and enforcing ordinances for the sustainable use of coastal resources in protected areas even if the PAMB is not yet formed. All ordinances developed prior to the establishment of the PAMB must be considered in the formulation of the management plan.

In cases of MPAs encompassing only one province and for which the PAMB has not been formed yet, the Regional Director should request the PENRO to organize the PAMB as soon as possible. All the involved LGUs of the province should undertake the organization with the PENRO and have the names of the PAMB members submitted to the Secretary.

**Q What laws govern the catching of marine mammals and who has jurisdiction over them?**

**A** FAO 185, s1992, and FAO 185-1, s1997 prohibit the taking, catching, sale, purchase, possession, transport, and export of whales, porpoises, and dolphins. Regulatory jurisdiction over these types of marine mammals is with the DA-BFAR, while jurisdiction over the protection and conservation of the dugong or sea cow (*Dugong dugon*) is with the DENR-Protected Areas Wildlife Bureau (PAWB) as provided for in DAO 55, s1991.

**Q** What laws govern the catching of whale sharks and manta rays and who has jurisdiction over them?

**A** FAO 193, s1998 prohibits the taking, catching, sale, purchase, possession, transport, and export of whale sharks and manta rays. Regulatory jurisdiction over these types of marine animals is with the BFAR.

**Q** Who has jurisdiction over the conservation of marine turtles?

**A** The DENR, specifically the PAWB, has jurisdiction over the conservation of marine turtles. This is provided for in MNR AO 12, s1979, which assigns to the (then) Bureau of Forest Development (BFD) and BFAR the enforcement of this order. The PAWB absorbed the functions of BFD via EO 192, including jurisdiction over marine turtles.

## OTHER ENVIRONMENTAL ISSUES, INCLUDING POLLUTION AND HABITAT MANAGEMENT

**Q** What are the LGU's roles and powers in enforcing effluent standards set by the DENR-EMB on wastewater?

**A** All LGUs (i.e., *barangays*, municipalities, cities, and provinces), are vested with power to enforce pollution control laws through legislation and/or establishment of measures to protect the environment (Sec. 17(b)(3)(iii); Sec. 17(b)(4), Sec. 389(a)(9), Sec. 446(a)(1)(vi); Sec. 458 (a)(1)(vi); Sec. 468(a)(1)(vi) of the LGC). Nevertheless, this power is subject to the control and review of the DENR. The broad guidelines provided by the DENR with respect to devolved functions, including that of environmental management, is contained in DAO 30, s1992. The role and powers of concerned LGUs in enforcing wastewater standards include: (1) enforce pollution control law and other laws on the protection of the environment; (2) approve ordinances and pass resolutions that will protect the environment and impose appropriate penalties for acts which endanger the environment and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes, or ecological imbalance; (3) adopt measures and safeguards against pollution in consonance with approved standards on environmental sanitation (DAO 35, s1990); and (4) implement cease-and-desist orders issued by the Pollution Adjudication Board (PAB).

**Q What law can be used to control solid waste disposal and who should enforce this?**

**A** The LGU should enforce policies pertaining to solid waste disposal. Sec. 17 of the LGC states that *“Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this code. Such basic services and facilities include, for a barangay: services and facilities related to general hygiene and sanitation, beautification, and solid waste collection; for a municipality, solid waste disposal system or environmental management system and services or facilities related to general hygiene and sanitation.”* The responsibility of cities and municipalities for providing an efficient system of collecting, transporting, and disposing refuse is also provided for in Sec. 82 of PD 856 (Sanitation Code).

PD 856, s1975, Chapter XVIII, provides for a system of refuse (inclusive of all solid waste products such as garbage, rubbish, ashes, night soil, manure, dead animals, street sweepings, and industrial wastes) disposal.

**Q Factory X is located in LGU 1 which is only a hundred meters from the border of LGU 2. If the effluents of Factory X seep into the municipal waters of LGU 2, can the latter seek the closure of said factory?**

**A** Yes. LGU 2, through a resolution of the *Sangguniang Bayan* authorizing the Municipal Mayor to act as its representative, may avail of any legal remedies on behalf of the LGU or its constituents before such bodies as the PAB of the DENR, the Office of the Municipal Mayor of LGU 1, the Provincial Board, or any other office or agency which exercises regulatory jurisdiction over the operation of Factory X.

**Q What is the role of the LGU in implementing the law on Toxic Substances, Hazardous and Nuclear Wastes Control Act (RA 6969)?**

**A** In both RA 6969 and its IRR (DENR AO 29), the LGU has not been tasked with direct responsibilities on the control and prevention of toxic and hazardous wastes. Nevertheless, the overall LGU mandate for environmental management as provided for by the LGC implies that LGUs should be constantly monitoring activities related to toxic and hazardous wastes within its territorial jurisdiction and should report any illegal and/or ecologically dangerous activities to the DENR. The rules and regulations governing the importation, manufacture, processing, sale, distribution, transportation, use, storage, and disposal of toxic and hazardous wastes as defined in RA 6969 shall be administered by the DENR Secretary or his duly authorized representative, or through any other department,

bureau, office, agency, state university or college, and other instrumentalities of the Government for which assistance in the form of personnel, facilities, and other resources is sought by the DENR in the discharge of its functions (Sec. 5, DAO 29, s1992). In the discharge of his functions, the Secretary may appoint and deputize officers subject to the conditions, limitations, or restrictions as may be prescribed by him and in accordance with the provisions of DENR AO 29.

**Q Can LGUs prevent the passage of vessels carrying toxic and/or nuclear waste through its municipal waters?**

**A** Yes. LGUs, in enforcing national laws, may prevent the passage of ships carrying toxic and/or nuclear waste (RA 6969). Moreover, it is advised that the LGU approach the DENR who has jurisdiction over nuclear, hazardous, and toxic wastes or any of its designated environmental protection officers who are authorized to stop, detain, inspect, and remove to some suitable place for inspection and examination any vehicle or boat that he believes is being or likely to be used for the transport of chemical substances or hazardous wastes without the necessary permit from the DENR (Sec. 9, DAO 29, s1992).

**Q Can an LGU enjoin a national project like an oil pipeline under its municipal waters?**

**A** No. LGUs cannot enjoin any government activity critical to the economic development effort of the nation. The LGUs cannot hamper the pursuit of essential government projects such as an oil pipeline because it would imperil public interest. However, the LGC provides for a system of consultation between a national government agency and LGU for projects or programs that may cause *“pollution, climate change, depletion of non-renewable resources, etc.”* (Sec. 26 and 27). DILG Memo Circular No. 52, s1993, enjoins strict adherence to aforementioned provisions of the LGC.

**Q Who is responsible for the enforcement of anti-marine pollution laws within municipal waters?**

**A** The local governments, specifically, the Province, the PCG, the PNP-MARIG and its deputies, and the DENR. PD 979, or the Marine Pollution Decree of 1976 and PD 601 of 1974 have delegated to the PCG the function of enforcing laws against the pollution of the sea. RA 6975 Sec. 35(b)(1) vests on the PNP-MARIG the power to enforce laws, including marine pollution laws, over all Philippine waters. PD 1160 deputizes the *Barangay* Captain, the *Barangay* Councilman and *Barangay* Zone Chairman to *“enforce and implement national and local laws, ordinances and rules and regulations governing*

*pollution control and other activities which create imbalance in the ecology or disturbance in environmental conditions.*” Lastly, the LGC (Sec. 17(b)(3)(iii)) provides for the Province to enforce pollution control law, small-scale mining law, and other laws on the protection of the environment.

**Q**

**Who will penalize industries that discharge effluents in coastal waters? Is it the DENR through the PAB or LGUs? If it is the local council, is there a need for an enabling ordinance?**

**A**

Both the DENR, through the PAB and the LGU may penalize industrial owners who discharge untreated or insufficiently treated industrial effluents into the coastal waters. The former may penalize said polluters by virtue of PD 984, the national Pollution Control Decree of 1976, while the LGU may penalize said polluters through an enabling ordinance.

Under Sec. 19 of EO 192, the Reorganization Act of the DENR (1987), the PAB assumed the powers and functions of the National Pollution Control Commission with respect to the adjudication of pollution cases under RA 3931 and 984. While RA 7160 conferred broad powers on the LGUs, these powers do not include those vested in the PAB by EO 192 in relation to PD 984. Therefore, the PAB retains exclusive jurisdiction over pollution cases under PD 984.

Such exertion by the PAB of exclusive jurisdiction over pollution cases covered by PD 984 does not, however, mean that the LGUs can no longer be effective partners of the national government in the management and maintenance of ecological balance within their respective territorial jurisdictions. Within their respective jurisdictions, LGUs may still enhance the right of the people to a balanced ecology in at least three ways, i.e., by assisting the PAB in the implementation of its orders and decisions, by passing ordinances which penalize acts of pollution, and through abatement of nuisance.

Under Sec. 3.3 of DAO 30, s1992, the implementation of cease-and-desist orders issued by the PAB has been devolved to the LGUs. Such devolution is consistent with the LGUs’ power to enforce pollution control laws and other laws on the protection of the environment.

The act of discharging untreated or inadequately treated industrial effluents into the coastal waters may also be penalized under a separate local ordinance, as authorized by Sec. 447 of the LGC for a municipal legislative body, Sec. 458 of the LGC for a city council, and Sec. 465 of the LGC for a provincial legislature. It is the specific ordinance



that would authorize the LGU to impose fines and penalties, including imprisonment, on the erring firms, separate and distinct from those provided under PD 984.

Sec. 8 of RA 3931, An Act Creating the National Water and Air Pollution Control Commission (1964), which was subsequently amended by PD 984, provides that “[n]o investigation being conducted or ruling made by the Commission [the PAB’s predecessor] shall prejudice any action which may be filed in court by any person in accordance with the provisions of the New Civil Code on nuisance.” The aforementioned provision, in relation to Sec. 447 and 458 of the LGC, empowers the municipal and city legislatures to penalize pollutive firms based on the Civil Code provisions, and their own ordinances, on nuisance.

While Sec. 16 of the LGC grants the LGUs police powers, the exercise of such police powers must be made in relation to enabling legislation, especially when the imposition of penalties such as closure, imprisonment, and imposition of fines is involved.

Both the PAB and the LGU may penalize the owners of industrial firms discharging untreated or inadequately treated effluents into coastal waters, although the powers of these two entities to penalize the pollution arise from different laws.

**Q**

**Who should enforce the law if cement mining plants discharge effluents that alter the marine environment? Assuming that such effluents will adversely affect the migrating whales protected under international treaty, is the cement mining plant penalized through an ordinance or an international treaty? If it is penalized through a treaty, who will enforce such a treaty?**

**A**

The Coast Guard, together with the PNP-MARIG, is tasked to enforce laws relating to marine pollution. PD 601, the Revised Coast Guard Law of 1974, provides that one of the specific functions of the Coast Guard is “.... *To enforce laws, promulgate and administer rules and regulations for the prevention of marine pollution within the territorial waters of the Philippines in coordination with the National Pollution Control Commission...*”.

The PNP, on the other hand, is mandated under RA 6975, the Department of the Interior and Local Government Act of 1990, to take over the functions of the Coast Guard: “*The PNP shall absorb ... the police functions of the Coast Guard. In order to perform its powers and functions efficiently and effectively, the PNP shall be provided with adequate land, sea, and air capabilities and all necessary material means of resources...*”. The PNP performs this function under the Maritime Group. At present, the Maritime Group and the PCG are in close coordination in the enforcement of laws relative to marine pollution.



As a general rule, treaties cannot penalize individuals. Treaties are generally binding only on States, which have ratified them, so the obligations imposed by a treaty are only directly binding on the State. Liability for failure to comply with the treaty obligations is imposed not on the individual but on the State-party to the treaty.

It is the obligation of the State-party to enforce the provisions of the treaty upon its citizens by virtue of a national law. The exception to the rule is when the treaty itself recognizes the legal personality of individuals under international law such as in certain human rights instruments and certain environmental treaties (e.g., adoption of the polluter-pays principle).

At present, there is no specific treaty penalizing individuals who have caused marine pollution. However, the Philippine Government is a State-party to the UNCLOS. Under the UNCLOS, the Philippine government is obliged to undertake measures to protect the marine environment. Art. 207 of the UNCLOS provides that:

- ♦ States shall adopt laws and regulations to prevent, reduce, and control pollution of the marine environment from land-based sources, including rivers, estuaries, pipelines, and outfall structures, taking into account internationally agreed rules, standards, and recommended practices and procedures.
- ♦ States shall take other measures as may be necessary to prevent, reduce, and control such pollution.

The obligation imposed on the Philippine government is in the form of an undertaking to adopt laws pertaining to the marine environment. Individuals are not penalized under this treaty.

Under Sec. 9(d) of PD 984: “..*[a]ny person who violates any of the provisions of, or fails to perform any duty imposed by this Decree or its implementing rules and regulations or by Order or Decision of the Commission [now the PAB] promulgated pursuant to this decree, thereby causing the death of fish or other aquatic life, shall in addition to the penalty above prescribed, be liable to pay the government damages for fish or aquatic life destroyed.*”

**Q**

**Who has jurisdiction over siltation problems?**

**A**

Under Sec. 17 of RA 7160, the LGU (province) has been tasked to enforce pollution control laws, small-scale mining laws, and other laws on the protection of the environment, pursuant to national policies and subject to the supervision, control, and review of the DENR. Under Sec. 447(a)(1)(vi), the *Sangguniang Bayan* is empowered to protect the environment and impose appropriate penalties for acts which endanger the

environment including activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance. Within its territorial jurisdiction, therefore, the LGU is empowered to enact ordinances to mitigate siltation problems and enforce national laws concerning the matter. If siltation occurs as a downstream effect of an activity elsewhere beyond the LGU's territory, the LGU has the primary responsibility for monitoring and pinpointing the causative factors of siltation and reporting it to the LGU which does have jurisdiction, the DENR, or other concerned NGAs, for appropriate action. The causes can be a wide range of activities—deforestation, mining, agricultural runoff, local dredging for roads and infrastructure, even sludge from localized sources. Where a complaint has been lodged by the LGU, the DENR regional office is tasked to investigate such complaints relating to possible violations of the EIS System (DENR AO 96-37). The EMB Director or the RED is empowered to impose penalties upon persons or entities found violating provisions of PD 1586 or its IRR, including the issuance of a cease-and-desist order against an erring firm. In cases where the cause of siltation comes from lands and resources directly under the LGU jurisdiction, such as slash-and-burn farming in LGU-covered lands of the public domain, the LGU can directly act against the violators by invoking appropriate local ordinances on the matter.

Under RA 7942 (Philippine Mining Act of 1995), the Regional Director of the MGB may issue cease-and-desist orders or suspend mining or quarrying operations in case of imminent danger to the environment, until the danger is removed or appropriate measures are taken. Moreover, the Regional Director in consultation with the DENR-EMB shall require the contractor/permittee or lessee to remedy the practice, which is not in accordance with anti-pollution laws and regulations.

**Q**

**What is the scope of the EIS System?**

**A**

DAO 96-37 (s1996) classifies the activities falling within the scope of the EIS System into two broad categories: a) ECPs and b) ECAs. Specific activities falling within these two categories are:

- ◆ ECPs
  - Heavy industries
  - Non-ferrous metal industries
  - Iron and steel mills
  - Petroleum and petro-chemical industries including oil and gas
  - Smelting plants
  - Resource extractive industries
  - Major mining and quarrying projects
  - Forestry projects
  - Logging

- Major wood processing projects
- Introduction of fauna (exotic animals) in public/private forests
- Forest occupancy
- Extraction of mangrove products
- Grazing
- Fishery projects
- Dikes for/and fishpond development projects
- Infrastructure projects
- Major dams
- Major power plants (fossil-fueled, nuclear-fueled, hydro-electric or geothermal)
- Major reclamation projects
- Major roads and bridges
- Golf course projects
- ◆ Projects located in ECAs
  - All areas declared by law as national parks, watershed reserves, wildlife preserves, and sanctuaries
  - Areas set aside as aesthetic potential tourist spots
  - Areas which constitute the habitat for any endangered or threatened species of indigenous Philippine wildlife (flora and fauna)
  - Areas of unique historic archaeological or scientific interest
  - Areas which are traditionally occupied by cultural communities or tribes (indigenous cultural communities)
  - Areas frequently visited and/or hard-hit by natural calamities (geologic hazards, floods, typhoons, volcanic activity, etc.)
  - Areas with critical slopes
  - Areas classified as prime agricultural lands
  - Recharged area of aquifers
  - Water bodies characterized by one or any combination of the following conditions:
    - ❑ tapped for domestic purposes
    - ❑ within the controlled and/or protected areas declared by appropriate authorities
    - ❑ which support wildlife and fishery activities
  - Mangrove areas characterized by one or any combination of the following conditions:
    - ❑ with primary pristine and dense young growth
    - ❑ adjoining mouth of major river systems
    - ❑ near or adjacent to traditional productive fry or fishing grounds
    - ❑ which act as natural buffers against shore erosion, strong winds on which people are dependent for their livelihood

- Coral reefs characterized by one or any combination of the following conditions:
  - ❑ with 50 percent and above live coral cover
  - ❑ spawning and nursery grounds for fish
  - ❑ which act as natural breakwater of coastlines.

## MINING AND QUARRYING

**Q** Who is responsible for the granting of quarry permits?

**A** Permits to extract sand, gravel, and other quarry resources from public lands and riverbeds shall be issued exclusively by the *Sangguniang Panlalawigan* (LGC, Sec. 138). Quarry permit applications, commercial sand and gravel permit applications, and exclusive sand and gravel permit applications, may be filed with and processed by the Provincial/City Mining Regulatory Board. The corresponding quarry permit may be granted by the Provincial Governor/City Mayor to a qualified person covering an area of not more than 5 ha for a term of 5 years, renewable for one or more terms but not to exceed 25 years in the case of quarry permits (RA 7942, Sec. 90 and 91).

Industrial sand and gravel permit applications may be filed with and processed by the DENR Regional Office with the corresponding permit being granted by the RED to a qualified person for the removal of sand and gravel and other loose or unconsolidated materials that necessitate the use of mechanical processing covering an area of more than 5 ha but not to exceed 20 ha at any one time for a term of 5 years, renewable for like periods but not to exceed a total of 25 years. For areas covering 5 ha or less, an industrial sand and gravel permit may be filed at and processed by the Provincial/City Mining Regulatory Board and the corresponding permit granted by the Governor/City Mayor (RA 7942, Sec. 92 and 93).

**Q** What are the conditions and limitations of quarry or commercial/industrial sand and gravel permits?

- A**
- ♦ The permit shall be for the exclusive use of the permit holder and is non-transferable without prior written approval of the RED or the City Mayor/Provincial Governor;
  - ♦ Misrepresentations contained in the application shall be a cause for suspension or revocation of permit;

- ◆ No extraction or removal of materials shall be allowed within a distance of 1 km from the boundaries of reservoirs established for public water supply, archaeological and historical sites, and any public or private works or structures, unless the prior clearance of the agency or owner concerned is obtained. No extraction or removal of materials shall likewise be allowed in offshore areas within 500-m distance from the coast and 200 m from the mean low tide level along the beach. In addition, extraction of sand and gravel along beaches is prohibited under *Batas Pambansa Blg. 265*;
- ◆ The removal or taking of materials under the permit shall be confined within the area specified therein;
- ◆ The permit shall *ipso facto* terminate after the whole quantity and kind of materials specified have been removed or taken;
- ◆ The permittee shall secure an ECC prior to the extraction for small quarry and commercial sand and gravel permits, while large quarry and commercial sand and gravel permits and all industrial sand and gravel permits shall be required to secure an ECC before the application is processed.

### **Q Who grants small-scale mining permits?**

**A** Small-scale mining permits shall be issued by the Provincial Governor upon area clearance from the concerned DENR regional office and upon recommendation by the Provincial/City Mining Regulatory Board. For areas located within the municipalities of the National Capital Region, the concerned municipal mayors upon area clearance from the concerned DENR regional office (DAO 50, s1993) shall likewise issue the permits.

## **INSTITUTIONAL ISSUES**

### **Q Is the establishment of FARMCs obligatory?**

**A** Yes. Sec. 69 of the Fisheries Code states that “*FARMCs shall be established at the national level and in all municipalities abutting municipal waters ... The FARMCs shall be formed by fisherfolk organizations/cooperatives and NGOs in the locality and be assisted by the LGUs and other government entities.*”

**Q** Can *Barangay* and/or Provincial FARMCs still be established despite not being covered in the Fisheries Code?

**A** Yes. *Barangay* and/or Provincial FARMCs may still be established on account of EO 240, which was not repealed by the Fisheries Code, and which recommends for the creation of FARMCs in coastal *barangays*, cities, and municipalities. The structure for *barangay* FARMCs as provided for by EO 240 may be maintained.

**Q** Is data gathering also a responsibility of LGUs?

**A** Yes. The LGC has granted the LGUs with power and authority to gather data which are essential to research and information services, and for the formulation of resolutions and ordinances (Sec. 17, 447(a)(1)(vi) & Sec. 458(a)(1)(vi)). Moreover, the Information Officer of the LGUs has the duty and function relative to the gathering of relevant, adequate, and timely information (Sec. 486(b)(3)(1), LGC).

**Q** What law/national agency governs the issues of resettlement in coastal areas?

**A** Sec. 108 of the Fisheries Code authorizes the BFAR to establish and create fisherfolk settlement areas in coordination with concerned agencies of government. Sec. 27, in relation to Sec. 26 of the LGC, provides that occupants in areas where a project or program, which may affect ecological balance, is to be implemented shall not be evicted unless appropriate relocation sites have been provided in accordance with the provisions of the Constitution. Under the LGC, the LGUs are conferred with powers and authority to perform specific functions and responsibilities including the relocation of their affected inhabitants.

## LEGISLATION, TAXES, AND PENAL PROVISIONS

**Q** Distinguish an ordinance from a resolution.

**A** An ordinance prescribes a permanent rule of conduct or government, while a resolution is of a temporary character only. It may be stated as a general rule, that matters upon which the municipal corporation desires to legislate must be put in the form of an ordinance, while all acts that are done in its ministerial capacity and for a temporary purpose may be

put in the form of a resolution. An ordinance requires greater formalities in its enactment than a resolution.

The term “resolution” denotes something less formal than the term “ordinance”. Generally, it is a mere expression of the opinion or mind of the council concerning some matter of administration coming within its official cognizance and provides for the dissolution of a particular item of administrative business of a municipal corporation.

However, the observance of the proper form in passing an ordinance or resolution is often used interchangeably, as has notably been the practice of local legislative bodies. Thus, legislative actions providing for a permanent rule of conduct may be passed and presented in the form of a resolution. When what was enacted was a resolution but the same was passed in the manner and with the statutory formality required in the enactment of ordinance, it will be binding and effective as an ordinance (*Favis vs. Baguio City*, 27 SCRA 1060). Hence, a legislative measure in the form of a resolution but with formal and substantive requisites of an ordinance may validly repeal a previous ordinance.

**Q**

**Define fee, license, and tax.**

**A**

A fee is a charge fixed by law or agency for the services of a public officer. A license is a right or permission granted in accordance with law by a competent authority to engage in some business or occupation or in some transaction. In order for a license to be considered merely as a regulatory measure, it must be only of a sufficient amount to include the expenses of issuing the license and the cost of the necessary inspection of police surveillance, taking into account not only the expenses of direct regulation but also incidental consequences.

A tax is an enforced contribution, usually monetary in form, levied by the law-making body on persons and property subject to its jurisdiction for the precise purpose of supporting governmental needs. Taxes are for revenue purposes, whereas fees are for purposes of regulation. Taxes are levied in the exercise of taxing power, whereas fees are a consequence of the exercise of the police power. In view of these distinctions, a reasonable rate of fee must necessarily be lower than what may be deemed as a reasonable rate of tax.

Under Sec. 133 of the LGC, which prescribes limitations on the taxing powers of LGUs, marginal farmers or fishers are exempt from taxes, fees, or charges on agricultural and aquatic products imposed by LGUs.

**Q** Is there a difference between nationally legislated laws and locally legislated ordinances?

**A** National laws are valid and can be enforced anywhere in the Philippines. Municipal ordinances are only applicable within the municipality that enacted the ordinance.

**Q** Can an LGU issue an ordinance on a matter related to the environment that has not been dealt with by any national law?

**A** The LGC provides for the ordinance-making function of the *Sangguniang Bayan*, Sec. 447(a)(1)(vi), and that of the *Sangguniang Panlalawigan*, Sec. 468(a)(1)(vi), to include the enactment of ordinances/resolutions that “*protect the environment and impose appropriate penalties for acts which endanger the environment, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes or of ecological imbalance.*” An LGU may issue an ordinance that responds to the concerns raised above for as long as it does not contradict any national law. For example, an LGU may issue a regulation regarding the anchoring of buoys, which has not been covered sufficiently by any national legislation.

**Q** Do LGUs have the authority to impose penalties?

**A** Yes. The authority of LGUs to impose penalties towards acts that endanger the environment is borne by the LGC Sec. 447(a)(1)(vi), for municipalities, and Sec. 458(a)(1)(vi), for cities and provinces. *Barangays* are also empowered to enact ordinances as may be necessary to discharge the responsibilities conferred to them by law and to promote the general welfare of their inhabitants (Sec. 391(a)(1)), thus deriving their authority to impose penalties.

**Q** What types of penalties can be imposed and what are the limitations?

**A** Penalties may be in the form of fines or imprisonment or both.

*Barangays*, however, may only impose fines and in amounts not exceeding PhP1,000 for violation of *barangay* ordinances (Sec. 391(a)(14)).



Municipalities may approve ordinances imposing a fine not exceeding PhP2,500 or an imprisonment for a period not exceeding 6 months or both at the discretion of the court (Sec. 447(a)(1)(iii)).

Cities and provinces may approve ordinances imposing a fine not exceeding PhP5,000 or an imprisonment not exceeding 1 year or both at the discretion of the court (Sec. 458(a)(1)(iii) and Sec. 468(a)(1)(iii)).

**Q**

**Can an LGU penalize acts that endanger the environment if national laws already provide for such?**

**A**

In enacting ordinances imposing penalties for acts that endanger the environment, LGUs must note the acts already penalized under national laws and statutes. This is because the Constitution provides that if an act is punished by law and an ordinance, a conviction or acquittal under either shall constitute a bar to another prosecution for the same act (Constitution, Art. III, Sec. 21).

In order to avoid double jeopardy complications, it would be advisable for ordinances enacted by LGUs to penalize only those acts that are not yet covered by national penal statutes. And insofar as acts already penalized by national laws, local ordinances may provide for strategies or modes to make their enforcement more effective, with the sanctions to be imposed in accordance with pertinent national laws or statutes.

**Q**

**What are the violations of pollution laws and what are the respective penalties?**

**A**

Act/Offense	Legal basis	Penalty
<b>Toxic Substances and Hazardous Wastes</b>		
Knowingly use a chemical substance or mixture which is imported, manufactured, processed, or distributed in violation of RA 6969 and its rules and regulations	<i>RA 6969, Sec. 13(a)</i>	♦ Penalty is imprisonment of 6 months and 1 day to 6 years and 1 day and fine of PhP600 to PhP4,000.
Failure or refusal to submit reports, notices or other information, access to records or permit inspection of establishment where chemicals used are manufactured, processed, stored, or held	<i>RA 6969, Sec. 13(b)</i>	♦ Penalty is imprisonment of 6 months and 1 day to 6 years and 1 day and fine of PhP600 to PhP4,000.

(continued)

Act/Offense	Legal Basis	Penalty
Failure or refusal to comply with pre-manufacture and pre-importation requirements	<i>RA 6969, Sec. 13(c)</i>	♦ Penalty is imprisonment of 6 months and 1 day to 6 years and 1 day and fine of PhP600 to PhP4,000.
Storage, importation, or buying into Philippine territory any amount of hazardous and nuclear wastes	<i>RA 6969, Sec. 13(d)</i>	♦ Penalty is imprisonment of 12 years and 1 day to 20 years. ♦ Penalty for the commission of any of these acts is a fine of PhP5,000 to PhP50,000 exclusive of the value of the thing damaged, or imprisonment of 1-6 years or both.
<b>Pollution</b>		
Throwing, running, draining, or disposing into any of the water, air, and/or land resources any organic or inorganic matter or any substance in gaseous or liquid form that shall cause pollution	<i>PD 984, Sec. 8</i>	♦ Penalty consists of fine of PhP200 to PhP5,000 per day during which the violation continues or imprisonment from 1 month to 6 years or both.
Littering or throwing of garbage, filth, or other waste matters in public places	<i>PD 825, Sec. 2</i>	♦ Offenders are penalized with imprisonment of 5 days to 1 year or fine of PhP100 to PhP2,000 or both.
Discharging of oil, noxious, gaseous, and liquid substances from or out of any ship, vessel, barge, or other man-made structures at sea	<i>PD 979, Sec. 4(a)</i>	♦ Penalty for violation is imprisonment of 30 days to 1 year or a fine of PhP200 to PhP1,000 or both.
Throwing, discharging, disposing, or dumping from out of any ship, vessel, barge or other floating craft or vessel, or from the shore, wharf, manufacturing establishment, or mill, any refuse matter other than those flowing from streets and sewers	<i>PD 979, Sec. 4(b)</i>	♦ Penalty for violation is imprisonment of 30 days to 1 year or a fine of PhP200 to PhP1,000 or both.
Disposing of material of any kind in any place on the bank of any navigable river	<i>PD 979, Sec. 4(b)</i>	♦ Penalty for violation is imprisonment of 30 days to 1 year or a fine of PhP200 to PhP1,000 or both.
<b>Environmental Protection</b>		
Operating any ECP or a project in an ECA without first securing an ECC	<i>PD 1586, Sec. 4 and Sec. 9</i>	♦ Penalty is a fine of PhP50,000.
Violation of terms and conditions in the issuance of ECC	<i>PD 1586, Sec. 9</i>	♦ Penalty is a fine of PhP50,000 for every violation.

RA 6969 – Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990  
 PD 825 – Providing Penalty for Improper Disposal of Garbage and Other Uncleanliness  
 PD 979 – Marine Pollution Decree  
 PD 984 – Pollution Decree of 1976  
 PD 1586 – Environmental Impact Statement System



# ANNEX A

## *Glossary*

---

### A

**Agriculture and Fisheries Modernization.** The process of transforming the agriculture and fisheries sectors into one that is dynamic, technologically advanced, and competitive yet centered on human development, guided by the sound practices of sustainability and the principles of social justice (RA 8435).

**Alienable or Disposable Lands.** Those lands of the public domain, which have been the subject of the present system of classification and certified as not needed for forestry purposes (PD 705; DAO 15, s1990).

**Aquatic Pollution.** The introduction by human or machine in the grounds or waters, directly or indirectly, of substances or energy to the aquatic environment which result or is likely to result in such deleterious effects as to harm living and non-living aquatic resources, pose potential and/or real hazard to human health, hindrance to aquatic activities such as fishing and navigation, including the dumping/disposal of waste and other marine litter, discharge of petroleum or residual products of petroleum or carbonaceous materials/substances and other radioactive, noxious or harmful liquid, gaseous or solid substances, from any water, land, or air transport or other man-made structure. Deforestation, unsound agricultural practices such as the use of banned chemicals and excessive use of artificial fish feed, and wetland conversion, which cause similar hazards and deleterious effects shall also constitute aquatic pollution (RA 8550).

**Artificial Reefs.** Any structure of natural or man-made materials placed on a body of water to serve as shelter and habitat, source of food, breeding areas for fishery species and shoreline protection (RA 8550).

### B

**Buffer Zone** (in NIPAS areas). Identified areas outside the boundaries of and immediately adjacent to protected areas that need special development control in order to avoid or minimize harm to the protected area (RA 7586).

### C

**Catch Ceilings.** The annual catch limits allowed to be taken, gathered, or harvested from any fishing area in consideration of the need to prevent overfishing and harmful depletion of breeding stocks of aquatic organisms (RA 8550).

**Closed Season.** The period during which the taking of specified fishery species by a specified fishing gear is prohibited in a specified area or areas in Philippine waters (RA 8550).

**Coastal Area/Zone.** A band of dry land and adjacent ocean space (water and submerged land in which terrestrial processes and uses directly affect oceanic processes and uses, and vice versa; its geographic extent may include areas within a landmark limit of 1 km from the shoreline at high tide to include mangrove swamps, brackish water ponds, *nipa* swamps, estuarine rivers, sandy beaches, and other areas within a seaward limit of 200-m isobath to include coral reefs, algal flats, seagrass beds, and other soft-bottom areas (RA 8550).

**Coastal Environment Program (CEP).** A program established in the DENR to implement its projects on conservation and management of the coastal environment. The CEP encompasses all concerns over the habitat and ecological support systems of coastal communities and fisheries specifically pertaining to their productivity, biodiversity, integrity, sustainability, and equitability of access and use (EO 263; DAO 96-29).

**Coastal Water.** An open body of water along the country's coastline starting from the shoreline (MLLW) and extending onward up to the 200-m isobath or 3-km distance, whichever is farther (DAO 35, s1990).

**Commercial Fishing.** The taking of fishery species by passive or active gear for trade, business, or profit beyond subsistence or sports fishing, to be further classified as:

1. Small-scale commercial fishing – fishing with passive or active gear utilizing fishing vessels of 3.1 GT up to 20 GT;
2. Medium-scale commercial fishing – fishing utilizing active gear and vessels of 20.1 GT up to 150 GT; and
3. Large-scale commercial fishing – fishing utilizing active gear and vessels of more than 150 GT (RA 8550).

**Communal Mangrove Forest.** A tract of public forest set aside by the DENR Secretary upon the recommendation of the Director of the Forest Management Bureau for the exclusive use of the residents of the municipality (DAO 15, s1990).

**Community-based Forest Management Agreement (CBFMA).** A production sharing agreement entered into between a community and the government to develop, utilize, manage, and conserve a specific portion of the forestland, consistent with the principles of sustainable development and pursuant to a Community Resource Management Framework (EO 263; DAO 96-29).

**Coral.** The hard calcareous substance made up of the skeleton of marine coelenterate polyps, which includes reefs, shelves, and atolls or any of the marine coelenterate animals living in colonies where their skeletons form a stony mass. They include: (a) skeletons of anthozoan coelenterates characterized as having a rigid axis of compact calcareous or horny spicules, belonging to the genus corallium as represented by the red, pink, and white corals which are considered precious corals; (b) skeletons of anthozoan coelenterates characterized by thorny and horny axis such as the antipharisians represented by the black corals which are considered semi-precious corals; and (c) ordinary corals which are any kind of corals that are not precious or semi-precious (RA 8550).

## D

**Demarcated Areas.** Boundaries defined by markers and assigned exclusively to specific individuals or organizations for certain specified and limited uses such as:

1. Aquaculture, sea ranching, and sea farming
2. Fish aggregating devices
3. Fixed and passive fishing gears
4. Fry and fingerling gatherings (RA 8550)

## E

**Effluent.** A general term denoting any wastewater, partially or completely treated, or in its natural state, flowing out of a manufacturing plant, industrial plant, or treatment plant (DAO 35, s1990).

**Environmentally Critical Area (ECA).** An area that is environmentally sensitive and is so listed under Presidential Proclamation No. 2146, s1981, as well as other areas which the President may proclaim as environmentally critical in accordance with Sec. 4 of PD 1586 (DAO 21, s1992 as amended by DAO 96-37, s1996).

**Environmental Compliance Certificate (ECC).** The document issued by the DENR Secretary or the Regional Executive Director certifying that, based on the representations of the proponent and the preparers, as reviewed and validated by the EIA Review Committee, the proposed project or undertaking will not cause a significant environmental impact; that the proponent has complied with all the requirements of the EIS System; and that the proponent is committed to implement its approved Environmental Management Plan in the Environmental Impact Statement or mitigation measures in the Initial Environmental Examination (DAO 11, s1994).

**Environmentally Critical Project (ECP).** A project that has high potential for significant negative environmental impact and is listed as such under Presidential Proclamation No. 2146, s1981 and Presidential Proclamation No. 803, s1986, as well as other projects which the President may proclaim as environmentally critical in accordance with Sec. 4 of PD 1586 (DAO 21, s1992 as amended by DAO 96-37, s1996).

**Environmental Guarantee Fund (EGF).** A fund that proponents required or opting to submit an EIS shall commit to establish when an ECC is issued by the DENR for projects or undertakings determined by the latter to pose significant public risk, to answer for damage to life, health, property, and the environment caused by such risk, or requiring rehabilitation or restoration measures (DAO 21, s1992 as amended by DAO 96-37, s1996).

**Environmental Impacts.** The probable effects or consequences of proposed projects or undertakings on the physical, biological, and socioeconomic environment that can be direct or indirect, cumulative, and positive or negative (DAO 21, s1992 as amended by DAO 96-37, s1996).

**Environmental Impact Assessment (EIA).** The process of predicting the likely environmental consequences of implementing projects or undertakings and designing appropriate preventive, mitigating, and enhancement measures (DAO 21, s1992 as amended by DAO 96-37, s1996; DAO 11, s1994).

**Environmental Impact Assessment Review Committee (EIARC).** A body of independent technical experts and professionals of known probity from various fields organized by the EMB/RED whose main tasks are to evaluate the EIS and other documents related thereto, and make appropriate recommendations to the EMB/RED regarding the issuance or non-issuance of ECCs (DAO 21, s1992 as amended by DAO 96-37, s1996; DAO 11, s1994).

**Environmental Impact Statement (EIS).** The documents of studies on the environmental impacts of a project including the discussions on direct and indirect consequences upon human welfare and ecological and environmental integrity. The EIS may vary from project to project but shall contain in every case all relevant information and details about the proposed project or undertaking, including the environmental impacts of the project and the appropriate mitigating and enhancement measures (DAO 21, s1992 as amended by DAO 96-37, s1996; DAO 11, s1994).

**Environmental Impact Statement (EIS) System.** The entire process of organization, administration, and procedures institutionalized for purposes of assessing the significance of the effects of any project or undertaking on the quality of the physical, biological, and socioeconomic environment, and designing appropriate preventive, mitigating, and enhancement measures (DAO 21, s1992 as amended by DAO 96-37, s1996; DAO 11, s1994).

**Environmental Management Plan (EMP).** A section in the EIS that details the prevention, mitigation, compensation, contingency, and monitoring measures to enhance positive impacts and minimize negative impacts of a proposed project or undertaking (DAO 21, s1992 as amended by DAO 96-37, s1996).

**Environmental Monitoring Fund (EMF).** A fund that proponents required or opting to submit an EIS shall commit to establish when an ECC is issued by the DENR for its project or undertaking, to be used to support the activities of the multi-partite monitoring team (DAO 21, s1992 as amended by DAO 96-37, s1996).

**Environmental Risk Assessment (ERA).** The use of scientific methods and information to define the probability and magnitude of potentially adverse effects which can result from exposure to hazardous materials or situations (DAO 21, s1992 as amended by DAO 96-37, s1996).

**Exclusive Economic Zone (EEZ).** An area beyond and adjacent to the territorial sea which shall not extend beyond 200 nm from the baseline from which the breadth of the territorial sea is measured, under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by the relevant provisions of the UNCLOS (PD 1599 and Art. 55, Part V of UNCLOS).

## F

**FARMCs.** The Fisheries and Aquatic Resources Management Councils (RA 8550).

**Fee.** A charge fixed by law on ordinance for the regulation or inspection of a business or activity (RA 7160).

**Fish and Fishery/Aquatic Products.** Include not only finfish but also mollusks, crustaceans, echinoderms, marine mammals, and all other species of aquatic flora and fauna and all other products of aquatic living resources in any form (RA 8550).

**Fish Cage.** This refers to an enclosure which is either stationary or floating made up of nets or screens sewn or fastened together and installed in the water with opening at the surface or covered and held in place by wooden/bamboo posts or various types of anchors and floats (RA 8550).

**Fish Pen.** An artificial enclosure constructed within a body of water for culturing fish and fishery/aquatic resources made up of poles closely arranged in an enclosure with wooden materials, screen, or nylon netting to prevent escape of fish (RA 8550).

**Fisherfolk.** People directly or personally and physically engaged in taking and/or culturing and processing fishery and/or aquatic resources (RA 8550).

**Fisherfolk Cooperatives.** A duly registered association of fisherfolk with a common bond of interest, who have voluntarily joined together to achieve a lawful common social or economic end, making equitable contribution to the capital requirement and accepting a fair share of the risks and benefits of the undertakings in accordance with universally accepted cooperative principles (RA 8550).

**Fisherfolk Organization.** An organized group, association, federation, alliance or an institution of fisherfolk which has at least 15 members, a set of officers, a constitution and by-laws, an organizational structure, and a program of action (RA 8550).

**Fisheries.** All activities relating to the act or business of fishing, culturing, gathering, preserving, processing, marketing, developing, conserving, and managing aquatic resources and the fishery areas, including the privilege to fish or take aquatic products thereof (RA 8550).

**Fishery or Fishing Boat/Gear License.** A permit to operate specific types of fishing boat/gear for a specific duration in areas beyond municipal waters for demersal or pelagic fishery resources (DA-DENR-DILG-DOJ Joint AO No. 2, s1996; RA 8550).

**Fishery Management Area.** A bay, gulf, lake, or any other fishery area, which may be delineated for fishery resource management purposes (RA 8550).

**Fishery Refuge or Sanctuary.** A designated area where fishing or other forms of activities, which may damage the ecosystem of the area, are prohibited and human access may be restricted (RA 8550).

**Fishery Reserve.** A designated area where activities are regulated and set aside for educational and research purposes (RA 8550).

**Fishing Gear.** Any instrument or device and its accessories utilized in taking fish and other fishery species.

1. Active fishing gear – a fishing device characterized by gear movement, and/or the pursuit of the target species by towing, lifting, and pushing the gear, surrounding, covering, dredging, pumping, and scaring the target species to impoundments such as, but not limited to, trawl, purse seines, Danish seines, bag nets, *pa-aling*, drift gill net, and tuna longline
2. Passive fishing gear – characterized by the absence of gear movements and/or the pursuit of the target species such as, but not limited to, hook and line, fishpots, traps, and gill nets across the path of the fish (RA 8550).

**Fishing with Explosives.** The use of dynamite, other explosives, or other chemical compounds that contain combustible elements or ingredients which upon ignition by friction, concussion, percussion, or detonation of all or parts of the compound, will kill, stupefy, disable, or render unconscious any fishery species. It also refers to the use of any other substance and/or device which causes an explosion that is capable of producing the said harmful effects on any fishery species and aquatic resources and capable of damaging and altering the natural habitat (RA 8550).

**Fishing with Noxious or Poisonous Substances.** The use of any substance, plant extracts or juices thereof, sodium cyanide and/or cyanide compounds or other chemicals either in a raw or processed form, harmful or harmless to human beings, which will kill, stupefy, disable, or render unconscious any fishery species and aquatic resources and are capable of damaging and altering the natural habitat (RA 8550).

**Fishpond Lease Agreement (FLA).** A privilege granted by the state to a person or group of persons to occupy and possess in consideration of specified rental any public lands for the raising of fish and other aquatic products (DAO 15, s1990).

**Food Security.** Any plan, policy, or strategy aimed at ensuring adequate supplies of appropriate food at affordable prices. Food security may be achieved through self-sufficiency (i.e., ensuring adequate food supplies from domestic production), through self-reliance (i.e., ensuring adequate food supplies through a combination of domestic production and importation), or through pure importation (RA 8550).

**Forestlands.** Include the public forest, the permanent forest or forest reserves, and forest reservations (DAO 15, s1990).

**Forests.** Either natural vegetation or plantations of forest crops such as trees, or both, occupying a definable, uninterrupted, or contiguous area not less than 1 ha in size with the tree crowns covering at least 10 percent of the area, exclusive of the associated seedlings, saplings, palms, bamboo, and other undercover vegetation. A natural forest is a stand constituted by natural succession without human intervention which includes such stand



types as dipterocarp, pine, mossy, beach and/or mangrove, and for purposes of these rules are classified according to: 1) primary use and management, and 2) growth formation. As to primary use and management, a forest shall be either a: 1) protection forest, or 2) production forest. As to growth formation, a natural forest is classified according to either 1) primary or old growth forest, or 2) a residual or second growth forest, which refers to a natural forest which has been previously subjected to timber harvesting or extraction (EO 263; DAO 96-29).

## L

**License (in forestry).** A privilege granted by the State to a person to utilize forest resources within any forestland, without any right of occupation and possession over the same, or conduct any activity involving the use of any mangrove forest resources (FAO 15, s1990).

**Limited Access.** A fishery policy by which a system of equitable resource use and allocation is established by law through fishery rights granting and licensing procedure as provided by RA 8550 (RA 8550).

## M

**Mangrove Area.** The area found along the seacoast and estuaries whether sparsely or thickly vegetated with true and/or associated mangrove species, or open swampy areas, including brackish fishponds, extending along stream where the water is brackish (DAO 15, s1990).

**Mangrove Resources.** All terrestrial and aquatic flora and fauna in mangroves including land and minerals which could bestow any form of services, influences, and amenities to man and the environment (DAO 15, s1990).

**Mangrove Buffer Zones.** Strips of land at least 50 m in width fronting seas, oceans, and other bodies of water and 20 m on both sides of river channels/banks maintained and developed to enhance the protective capability of the mangroves against strong currents, winds, and high waves except in areas covered by Ministry AO 42, s1986 (DAO 15, s1990).

**Mangrove Forest.** The forest stand found in mangrove areas composed primarily of mangrove and associated species (DAO 15, s1990).

**Marginal Fisher.** An individual engaged in subsistence fishing which shall be limited to the sale, barter, or exchange of marine products produced by oneself and one's immediate family (RA 7160).

**Maximum Sustainable Yield (MSY).** It is the largest quantity of fish that can be harvested from fish stocks/resource within a period of time (e.g., one year) on a sustainable basis under existing environmental conditions (RA 8550).

**Mine Wastes and Tailings.** Mine wastes are soil and rock materials from surface or underground mining operations with no economic value to the generator of the same. Mine tailings are materials, whether solid or liquid segregated from ores during concentration/milling operations which have no economic value to the generator of the same (DAO 85, s1990; DAO 23, s1995).

**Minerals.** All naturally occurring inorganic substances in solid, gas, liquid, or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials, and geothermal energy (DAO 23, s1995).

**Multiple Use Zone.** Areas where settlement, traditional and/or sustainable land use, including agriculture, agro-forestry, extraction activities, and other income-generating or livelihood activities may be allowed to the extent prescribed in the management plan consistent with the General Management Planning Strategy. Land tenure may be granted to tenured residents whether indigenous cultural community/indigenous people or migrants (EO 263; DAO 96-29).

**Municipal Fishing.** Fishing within municipal waters using fishing vessels of 3 GT or less, or fishing not requiring the use of fishing vessels (RA 8550).

**Municipal Waters.** Include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defined under RA 7586, public forests, timberlands, forest reserves, or fishery reserves, but also marine waters included between two lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore islands and 15 km from it. Where two municipalities are so situated on opposite shores such that there is less than 30 km of marine waters between them, the third line shall be equally distant from the opposite shore of the respective municipalities (RA 8550).

## N

**National Integrated Protected Areas System (NIPAS).** The classification and administration of all designated protected areas to maintain essential ecological processes and life support systems, to preserve genetic diversity, to ensure sustainable use of resources found therein, and to maintain their natural conditions to the greatest extent possible (RA 7586).

**Nongovernment Organization (NGO).** An agency, institution, a foundation or a group of persons whose purpose is to assist people's organizations/associations in various ways including, but not limited to organizing, training, and research and/or access to resources (DA-DENR-DILG-DOJ Joint Memorandum Order 2, s1996).

## P

**Philippine Waters.** All bodies of water within the Philippine territory such as lakes, rivers, streams, creeks, brooks, ponds, swamps, lagoons, gulfs, bays, and seas and other bodies of water now existing or which may hereafter exist in the provinces, cities, municipalities, and *barangays* and the waters around, between, and connecting the islands of the archipelago regardless of their breadth and dimensions, the territorial sea, the sea beds, the insular shelves, and all other waters over which the Philippines has sovereignty and jurisdiction including the 200-nm Exclusive Economic Zone (EEZ) and the continental shelf (RA 8550).

**Protected Area Management Board (PAMB).** A multisectoral board created in each established protected area and vested with powers to administer the NIPAS implementation (EO 263; DAO 96-29).

**Protected Landscapes/Seascapes.** Areas of national significance which are characterized by the harmonious interaction of man and land while providing opportunities for public enjoyment through recreation and tourism within the normal lifestyle and economic activity of these areas (RA 7586).

## Q

**Quarrying.** The process of extracting, removing, and disposing of quarry resources found on or underneath the surface of private or public land (DAO 23, s1995).

## R

**Resource Rent.** The difference between the value of the products produced from harvesting a publicly owned resource less the cost of producing it, where cost includes the normal return to capital and normal return to labor (RA 8550).

## S

**Stewardship Agreement** (for mangroves). A contract entered into by and between an individual mangrove user or mangrove user association or cooperative and the government which grants the former the right to the exclusive use of a specified mangrove area in return for managing that area according to a stewardship plan (DAO 03, s1991).

## T

**Total Allowable Catch (TAC).** The maximum harvest allowed to be taken during a given period of time from any fishery area, or from any fishery species or group of fishery species, or a combination of area and species and normally would not exceed the MSY (RA 8550).

## W

**Watershed.** Land drained by a stream or fixed body of water and its tributaries having a common outlet for surface runoff (EO 263; DAO 96-29).

## ANNEX B

### *CRM-related issuances*

---

One of the basic and essential tasks in assessing the existing policy framework is the scoping and identification of available legal and administrative instruments. This listing of laws, issuances and administrative orders is organized according to hierarchy from all constitutional provisions relevant to coastal management to RAs, PDs, EOs, DAOs, FAOs, MOAs and other related issuances on capture fisheries, mangroves and pond culture, lands, mines, and protected areas, among others. The listing includes abridged descriptions of particular laws or provisions thereof.

**Constitution - Art. II, Sec. 16.** The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.

**Constitution - Art. XII, Sec. 2. (The Regalian doctrine).** All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, flora and fauna, and other natural resources are owned by the State. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State.

**Constitution - Art. XII, Sec. 2.** The State shall protect the nation's marine wealth in its archipelagic waters, territorial seas and EEZ, and reserve its use and enjoyment exclusively to Filipino citizens. The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority to subsistence fishermen and fishworkers in rivers, bays, lakes and lagoons.

**Constitution - Art. XII, Sec. 5.** The State, subject to the provisions of this Constitution and national development policies and programs, shall protect the rights of indigenous cultural communities to their ancestral lands to ensure their economic, social, and cultural well being.

**Constitution - Art. XIII.** The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged.

**Constitution - Art. XIII, Sec. 7.** i) Protection of the right of subsistence fishers, especially of local communities, to the preferential use of the communal marine and fishing resources. ii) Support to fishers through appropriate technology and research, adequate financial, production, and marketing assistance and other services. iii) Protection, development, and conservation of communal marine and fishing resources, extending to offshore fishing grounds of subsistence fishers against foreign intrusion.

**RA 293.** Authorizes the sale of marshy lands or lands under water bordering shores; excludes foreshore lands.

**RA 2694.** Amends certain provisions of CA 141; provides for schedule of rentals for foreshore land.

**RA 6541.** Prohibits and punishes electro-fishing.

**RA 6969 and DENR AO No. 29.** Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990 and implementing guidelines. Classifies what wastes are hazardous; sets up rules and responsibilities and instructions for handlers of wastes; provides a manifest system to track hazardous substances.

**RA 6975 (Dec. 13, 1990).** An act establishing the Philippine National Police under a reorganized Department of the Interior and Local Government, and for other purposes; Sec. 24 and Sec. 35 (b). Powers and functions of the PNP: the PNP shall absorb the police functions of the Coast Guard; Support units: the PNP shall be supported by administrative and operational support units; Maritime: headed by a Director with the rank of Chief Superintendent, the Maritime Police Unit shall perform all police functions over Philippine territorial waters and rivers.

**RA 7076.** An act creating a People's Small-scale Mining Program and for other purposes. It provides for the promotion and rationalization of viable small-scale mining activities in order to generate more employment opportunities and provide an equitable sharing of the nation's mineral resources.

**RA 7160.** The Local Government Code of 1991.

- **RA 7160, Sec. 131 (r).** Redefines municipal waters to include marine waters within a distance of 15 km from shoreline.
- **RA 7160, Sec. 138.** The province may levy and collect not more than 10 percent of the fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks; permit to quarry shall be issued by the provincial Governor.
- **RA 7160, Sec 149 (a).** i) Municipalities shall have the exclusive authority to grant fishery privileges in municipal waters and impose rentals, fees or charges; ii) Fishery privileges are granted to municipalities and cities to erect fish corrals; oyster, mussel or other aquatic beds; or *bangus* fry areas, within a definite zone of the municipality or city waters; iii) Duly registered organizations and cooperatives of marginal fishers shall have the preferential rights to such fishery privileges; iv) Privileges are granted by municipalities or cities to gather, take, or catch *bangus*, prawn or any other species of fry and fish from the municipal waters by nets, traps, or other fishing gear to marginal fishers free of any rental fee, charge, or any other imposition; v) Licenses are granted to cities or municipalities for the operation of fishing vessels of 3 t or less; vi) Adequate measures are adopted to safeguard and conserve mineral, marine, forest, and other resources of the province; vii) Appropriate penalties are imposed for acts which endanger the environment; viii) Communal forests and watersheds, tree parks, greenbelts, mangroves, and other similar forest development projects shall be established, maintained, protected, and conserved.

**RA 7161.** Incorporating certain sections of the Internal Revenue Code to PD 705, among others, bans the cutting of all species of mangroves.

**RA 7586 - NIPAS Act.** Establishment and management of National Integrated Protected Areas System. NIPAS encompasses outstanding remarkable areas and biologically important public lands that are habitats of rare and endangered species of plants and animal, biogeographic zones, and related ecosystems, whether terrestrial, wetland, or marine, all of which shall be designated as protected areas.

**RA 7611 – Strategic Environmental Plan for Palawan (SEP).** An act adopting the strategic environmental plan for Palawan, creating the administrative machinery for its implementation, converting the Palawan integrated area development project office to its support staff, providing funds therefore, and for other purposes.

**RA 7942 - Philippine Mining Act of 1995, Sec. 2.** The State shall recognize and protect the rights of the indigenous cultural communities to their ancestral lands as provided for by the Constitution. Sec. 5, a small-scale mining cooperative covered by RA 7076 shall be given preferential right to apply for a small-scale mining agreement for a maximum aggregate area of 25 percent of such mineral reservation, subject to valid existing mining/quarrying rights as provided for under Sec. 112, Chapter XX.

**RA 8435. The Agriculture and Fisheries Modernization Act of 1997.** Provides for maximization of agricultural and fisheries productivity and acceleration of modernization of said sectors.

**RA 8550 - The Philippine Fisheries Code of 1998.** Development, management, and conservation of the fisheries and aquatic resources.

- **RA 8550.** Prohibits any person or corporation to gather, possess, sell, or export ordinary, precious, and semi-precious corals, whether raw or in processed form, except for scientific and research purposes. Repeals PDs 1198 and 1219.
- **RA 8550, Sec. 2.** Defines the policy of the State to achieve food security as the overriding consideration in the utilization, management, development, conservation, and protection of fishery and aquatic resources while limiting access for the exclusive use and enjoyment of Filipino citizens.
- **RA 8550, Sec. 18.** Prescribes the rules for issuance of commercial fishing permits to small and medium commercial fishing vessels to fish within 10.1 to 15-km area from the shoreline in municipal waters.
- **RA 8550, Sec. 44.** Fishpond lease is for a period of 25 years, renewable under 25 years also; the area leased should be developed and producing on a commercial scale within 3 years; lease areas not developed within 5 years shall revert to public domain; no portion should be subleased; size of fishpond is 50 ha for individuals and 250 ha for corporation or fisherfolk organizations.
- **RA 8550, Sec. 45.** No public lands suitable for fishery purposes shall be disposed or alienated.
- **RA 8550, Sec. 63-67.** Reconstitutes the BFAR as a line bureau under the DA.
- **RA 8550, Sec 68-79.** Creates FARMCs at the national level and in all municipalities/cities abutting municipal waters.
- **RA 8550, Sec. 86-107.** Outlines prohibitions and penalties, among them, prohibitions on various forms of illegal fishing, fishing with fine mesh nets, fishing with active gear; bans the export of *bangus* fry and pollution of waters; bans the gathering, selling, or exporting of white sand, silica, pebbles, and any other substances which make up the marine habitat, etc.
- **RA 8550, Sec 109-112.** Establishes the Municipal Fisheries Grant Fund, Fishery Loan and Guarantee Fund, Fishing Vessels Development Fund, and the Special Fisheries Science and Appropishtech Fund to serve as the institutional mechanisms for getting loans from the government to support the fishing industry.

**RA 8551.** Amends certain provisions of PD 6975 mandating the reorganization of the Department of the Interior and Local Government.

**Commonwealth Act 141 – Public Land Act of 1936.** Title III, Chapter IX: classification and concession of public lands suitable for residence, commerce, and industry. Sec 59-68: rules governing sale or lease of reclaimed, foreshore, and/or marshy public lands.

**PD 189.** Amends part IX of the Integrated Reorganization Plan by renaming the Department of Trade and Tourism as the Department of Tourism, and creating the Department of Tourism with a Philippine Tourist Authority attached to it in lieu of the Philippine Tourist Commission.

**PD 424.** Creates the National Water Resources Council. The council was granted regulatory and executory functions (determine and grant water rights); advisory and recommendatory (advise NEDA on matters pertaining to water resources development); composed of DPWH, DENR, NEDA, NIA, and NPC.

**PD 463 (as amended by PD 1385 and PD 1677).** Mineral resources development decree of 1974. Provides for a modernized system of administration and disposition of mineral lands and to promote and encourage the development and exploitation thereof.

**PD 564 (amending PD 19, s1973).** The Philippine Tourism Authority Charter, which tasks this Agency to administer and regulate tourist zones and marine reserves.

**PD 601 (revised Coast Guard Law of 1974), Sec. 2a and f.** The Philippine Coast Guard created pursuant to RA 5173 shall have the following general objectives: a) to enforce or assist in the enforcement of all applicable laws upon the high seas and territorial waters of the Philippines including ports, customs zones, waterways and other inland waters; b) to enforce laws, promulgate, and administer regulations for marine environmental protection of the territorial waters of the Philippines.

**PD 602 (1974).** Establishes the Oil Pollution Operations Center in the Philippine Coast Guard.

#### **PD 705 - The Forestry Code of 1975.**

- **PD 705, Sec. 13.** Mangrove and other swamps not needed for shore protection and suitable for fishpond purposes shall be released to, and be placed under the administrative jurisdiction and management of BFAR.
- **PD 705, Sec. 16.** Areas needed for forest purposes include strips of mangroves or swamplands at least 20 m wide, along shorelines facing oceans, lakes, and other bodies of water, and strips of land at least 20 m wide facing lakes; all mangrove swamps set aside for coastal protection shall not be subject to clear cutting operation; mangrove swamps released to the BFAR for fishpond purposes which are not utilized, or which have been abandoned for 5 years shall revert to the category of forestland.
- **PD 705, Sec. 33.** Identifies river banks, easements, deltas, swamps, former river beds, and beaches as reforestable areas and covered with suitable and sufficient trees.
- **PD 705, Sec. 38.** Control of concession area needed for license agreement which is transferable; obligation of holder to adopt all protection and conservation measures conformably with multiple use and sustained yield management.
- **PD 705, Sec. 43.** Mangrove forests which protect the shoreline, the shoreline roads, and even coastal communities from the destructive force of the sea during high winds and typhoons shall be maintained and not alienated; such strips must be kept from artificial obstructions.

**PD 825.** Provides penalty for improper disposal of garbage and other forms of uncleanness and for other purposes. Garbage, filth, and other waste matters shall be placed in the proper receptacles for the disposition thereof by garbage collectors; sets penalty for any person littering; assigns the Secretary of Public Works and health officials as well as LGUs to supervise implementation of this decree.

**PD 856 – Sanitation Code, Chap. 7, Industrial hygiene.** Sewage disposal should be by means of a municipal or city sewerage system; all wastes incident to the operation of the industrial plant shall be collected, stored, or disposed of in a manner to prevent health hazards, nuisances, and pollution; an abatement program for the control of vermin shall be maintained.

**PD 979 – Marine Pollution Decree.** i) Prevention and control of marine pollution due to dumping of wastes and other matter which create hazards to human health, harm living resources and marine life, damage amenities, or interfere with legitimate uses of the sea within territorial jurisdiction of the Philippines; ii) Responsibility to promulgate national rules and policies governing marine pollution are vested on the EMB; iii) Responsibility to enforce laws, rules, and regulations governing marine pollution is vested on the Philippine Coast Guard.

**PD 984 - Pollution Decree of 1976.** Provides the guidelines on waste and effluent management.

**PD 1067 - The Water Resources Code of the Philippines.**

- **PD 1067, Art. 3.** All waters belong to the State; all waters that belong to the State cannot be subject to acquisitive prescription; the State may allow the use or development of waters by administrative concession.
- **PD 1067, Art. 73 and 74.** The conservation of fish and wildlife shall receive proper consideration and shall be coordinated with other features of water resources development programs to insure that fish and wildlife values receive equal attention with other project purposes; swamps and marshes which are owned by the State and which have a primary value for waterfowl propagation or other wildlife purposes may be reserved and protected from drainage operation and development.
- **PD 1067, Art. 51.** The banks of rivers and streams and the shores of the seas, and throughout their entire length and within a zone of 3 m in urban areas, 20 m in agricultural areas, and 40 m in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, floatage, fishing and salvage.”

**PD 1084 (1977).** Creates the Public Estates Authority (PEA), which is responsible for integrating, directing, and coordinating all reclamation projects for and in behalf of the Government.

**PD 1151 - Philippine Environmental Policy.** Creation, development, maintenance, and improvement of conditions under which man and nature can thrive in productive and enjoyable harmony with each other, to fulfill the social, economic, and other requirements of present and future generations of Filipinos and to insure the attainment of an environmental quality that is conducive to a life of dignity and well-being.

**PD 1152 - Philippine Environment Code.** i) Management of air and water quality, land use; ii) Natural resources management and conservation; waste management; iii) Conservation and utilization of surface and groundwaters; iv) Population and environment balance; v) Preservation of cultural environment; vi) Integration of environmental education into the school curriculum and tax incentives for the installation and manufacture of anti-pollution equipment and devices.



**PD 1160.** Deputizes the *Barangay* Captain, council person and zone chairperson as peace officers with authority to effect arrest of violators in accordance with law for purposes of enforcing and implementing national and local laws, or ordinances and rules and regulations governing pollution control and other activities which create imbalance in the ecology or disturbance in environmental conditions.

**PD 1586 - Environmental Impact Statement (EIS) System.** All agencies and instrumentalities of the national government, including GOCCs, private corporations, firms and entities with projects or proposed projects that may significantly affect environmental quality must comply with an EIS System.

**PD 1599.** Establishes the Philippine EEZ by extending to a distance of 200 nm beyond and from the baseline from which the territorial sea is measured.

**PD 2151.** Declares certain islands and/or parts of the country as wilderness areas.

**PD 2152.** Declares the entire province of Palawan and certain parcels of the public domain and/or parts of the country as mangrove swamp forest reserves.

**EO 114.** Constitutes the Presidential Committee on Illegal Fishing and Marine Conservation and tasks it to coordinate all government and nongovernment efforts in the planning and implementation of a national program for the conservation of marine and coastal resources.

**EO 117.** Establishes the Inter-agency Task Force for Coastal Environmental Protection.

**EO 153.** Authorizes the utilization of offshore areas not covered by approved mining permits and contracts as sources of dredgefill materials for government reclamation projects and for other purposes.

**EO 192 - The Reorganization Act of the DENR.** Establishes mandate of the DENR to include the conservation, management, and proper use of the country's environment and natural resources, specifically forest and grazing lands, mineral resources, including those in reservations and watershed areas, and lands of the public domain, as well as the licensing and regulation of all natural resources.

**EO 240.** Creates the FARMCs in *barangays*, cities, and municipalities, and defines their composition and functions.

**EO 263.** Adopts community-based forest management (CBFM) as the national strategy to ensure the sustainable development of the country's forestland resources and provides mechanisms for its implementation.

**EO 371.** Proclaims a special zone of peace and development (ZOPAD) in the Southern Philippines, and establishes the Southern Philippines Council for Peace and Development and the Consultative Assembly. Provides for entrepreneurial development support, livelihood assistance, and credit facilities especially in the vulnerable sectors such as women, farmers, and fisherfolk; provides capacity-building assistance for local communities and organizations.

**EO 477.** Transfers the PCG to the DOTC.

**EO 525.** Designates the PEA as the agency primarily responsible for all reclamation projects.

**EO 654.** Further defines certain functions and powers of the PEA.

**EO 1047.** Encourages distant water fisheries by the Philippine commercial fishing fleet.

**DA General Memorandum Order No. 3, s1990.** Prescribes the guidelines for the establishment of marine sanctuaries and defines the criteria for site selection and management.

**DAO 76, s1987.** Establishes buffer zone in coastal and estuarine mangrove areas.

**DAO 07, s1989.** Suspends the application and issuance of mine prospecting permits in government reservations, including mangrove reserves.

**DAO 14, s1989.** Amends MNR AO No. 518, s-84, on the establishment of certain areas in Northwestern Palawan as marine turtle sanctuary and promulgation of rules for the administration and control thereof.

**DAO 102, s1989.** Lifts the suspension on acceptance of application and issuance of prospecting and exploration permits in forest reserves.

**DAO 15, s1990.** Regulations governing the utilization, development, and management of mangrove resources.

**DAO 34, s. 1990.** Revised water usage and classification/water quality criteria amending Sec. 68 and 69, Chapter III of the 1978 NPCC rules and regulations. Includes water quality classification for coastal and marine waters starting with SA: waters suitable for propagation of shellfish, tourist areas and coral reef parks; SB: recreational water class I for bathing, swimming, diving; fishery water class I for spawning areas of *bangus* and similar species; SC: recreational water class II for boating and fishery water class II for commercial and sustenance fishing.

**DAO 35, s. 1990.** Establishes effluent standards.

**DAO 38, s1990.** Revised regulations on the delineation of functions and delegation of authorities over regulatory, administrative, and financial matters of DENR officials.

**DAO 85, s1990.** Imposes fees on mine tailings and wastes to compensate for damage to lands, agricultural crops, forest products, marine life, aquatic resources, and the destruction of infrastructure which are privately owned.

**DAO 03, s1991.** Policy and guidelines for the award and administration of mangrove stewardship agreement.

**DAO 04, s1991.** Revised regulations governing the Integrated Social Forestry Program.

**DAO 08, s1991.** Guidelines on the issuance of Environmental Compliance Certificate (ECC) or Environmental Clearance (EC) for the conversion of agricultural lands to non-agricultural uses.

**DAO 18, s1991.** Rules and guidelines governing the distribution of canceled or expired FLAs under EO 407 as amended by EO 448; identifies responsibilities of DA-BFAR and DAR with respect to canceled or abandoned FLA.

**DAO 29, s1991.** Guidelines in the inventory and sketching of foreshore areas.

**DAO 34, s1991.** Guidelines for the issuance of ECC for fishpond development.

**DAO 41, s1991.** Guidelines governing the deputation of Environment and Natural Resources Officers (ENROs), including criteria for deputation.

**DAO 55, s1991.** Declares *dugong* or sea cow as protected marine mammal in the Philippines.

**DAO 15, s1992.** Creates a Philippine Council for Sustainable Development and defines its composition, powers, and functions.

**DAO 17, s1992.** Delineates functions and implements the Integrated Social Forestry Program after the devolution of functions to the LGUs.

**DAO 28, s1992.** Guidelines on the issuance of permits for pebble-picking along beaches.

**DAO 30, s1992.** Guidelines for the transfer and implementation of DENR functions devolved to the LGUs.

**DAO 34, s1992.** Rules and regulations to implement RA 7076 otherwise known as People's Small-scale Mining Act of 1991.

**DAO 03, s1993.** Guidelines for the formulation of site-specific management manual and management plan for protected areas.

**DAO 04, s1993.** Guidelines for the adoption of the IPAS general management planning strategy (GMPS).

**DAO 16, s1993.** Guidelines for the establishment and management of buffer zones for protected areas.

**DAO 17, s1993.** Guidelines for the conduct of protected area suitability assessment.

**DAO 27, s1993.** Guidelines for the management of protected areas under the administrative jurisdiction of two regions.

**DAO 35, s1993.** Criteria and guidelines for the categorization of protected areas under the NIPAS.

**DAO 47, s1993.** Revised rates of fees for entrance to and use of facilities inside protected areas.

**DAO 56, s1993.** Composition of the Protected Areas Fund (IPAF) Governing Board.

**DAO 4, s1994.** Creates the Project Coordination Unit for all IPAS projects.

**DAO 30, s1994.** Implementing guidelines for NGO-assisted community-based mangrove forest management (CBMFM) for the DENR.

**DAO 39, s1994.** Defines and clarifies a tenured migrant as eligible to become steward of a portion of the land within a protected area.

**DAO 40, s1994.** Sequential diagram of NIPAS Act requirement on the establishment and management of protected areas.

**DAO 42, s1994.** Guidelines for entering into MOAs with other government agencies, NGOs, and private institutions for the development and management of protected areas.

**DAO 45, s1994.** Clarifies some provisions of RA 7568, including creation of PAMB, categorization of existing and proposed protected areas, conduct of public hearings, functional relationship of the protected area supervisor and DENR officers.

**DAO 46, s1994.** Creates the Protected Area Management Board (PAMB).

**DAO 03, s1995.** Procedural and/or documentary requirements; guidelines and/or criteria to be observed and/or followed in the selection of representatives of LGUs, NGOs, and POs to the PAMB.

**DAO 23, s1995.** Implementing rules and regulations of RA 7942 otherwise known as the Philippine mining act; includes provisions on administrative functions; scope of application; quarry operations; mineral reservations and environmental protection.

**DAO 28, s1995.** Composition and authority of PAMB Executive Committee. Clarifies the provisions of NIPAS Law regarding the modification of boundary of the protected area and its buffer zone.

**DAO 29, s1996.** Implementing rules and regulations of EO 263.

**DAO 24, s1998.** Schedule of approving authority for foreshore lease.

**DAO 17, s2001.** Guidelines for delineating/delimiting municipal waters.

**AO No. 201.** Provides for the coordination mechanism and funding for the implementation of the monitoring, control, and surveillance for the conservation and protection of renewable resources system for the Philippines; and designates the DA as the implementing agency for MCS-CPRR system.

**DENR Memorandum Circular No. 15, s1989.** Prioritizes the implementation of mangrove reforestation for the rehabilitation and development of mangrove forests and prescribes the technical features and model work and financial plans for reforestation activities.

**DENR Memorandum Circular No. 05, s1990.** Prescribes the guidelines for cutting of mangrove trees within approved FLA areas. Among others, it provides that buffer zones are to be maintained and developed pursuant to PD 705 and MAO No. 42, s1986; cut trees are to be turned over to DENR for disposition through public bidding; and an area equivalent to the aggregate size where mangroves are clear cut shall be planted with mangrove species by the FLA owner.

**DENR Memorandum Circular No. 7 (15 May 1991).** Conditions governing the issuance of mangrove cutting permits within approved FLA areas and the survey of mangrove areas for FLA applicants.

**DENR Memorandum Circular No. 12 (10 September 1991).** Policy on the issuances of licenses, leases, and permits covering islands with areas less than 50,000 ha.

**DENR Memorandum Circular No. 10 (6 August 1992).** Clarifies the devolution of functions to LGUs concerning mines sector under DENR AO No. 30, s1992.

**FAO 3.** Provides for the conservation of *banak* (mullet), establishing a closed season from 15 November to 15 January of each year, and regulating construction of fish corrals to be 200 m apart.

**FAO 11.** Rules and regulations for the protection of marine mollusks, e.g., licensing requirements, minimum size of shells that can be taken.

**FAO 24.** Regulations governing the scientific examination of fish caught or carried by fishing boats and for other purposes.

**FAO 29.** Rules and regulations governing the gathering of aquatic turtle eggs.

- FAO 76.** Regulations governing the collecting and gathering of marine turtles.
- FAO 82.** Prohibits the operation of all fishing gear using strong light to attract fish in Taal Lake.
- FAO 88.** Regulations for the conservation of turtles, turtle eggs, and turtle shell in the Philippines.
- FAO 122.** Prohibits the use of *pantukos* (seine used to catch *silinias*).
- FAO 125.** Rules and regulations governing the granting of 25-year FLAs.
- FAO 127.** Prohibits the operation of motorized push nets (*sarap/sacag*) to catch *tabios/sinarapan* in Lakes Buhi and Bato, Camarines Sur.
- FAO 129.** Bans the capture, selling, possession, and transporting of *sabalo*.
- FAO 146 s. 1983.** Rules and regulations governing the gathering and farming of seaweeds.
- FAO 148.** Regulates the gathering, catching, taking, or removing of marine tropical aquarium fish.
- FAO 155.** Regulates the use of fine mesh nets in fishing.
- FAO 157.** Rules and regulations on the gathering, taking, collecting of *kapis* of the species *Placuna placenta*.
- FAO 158.** Prohibits the gathering, selling, transporting of mollusks belonging to the genus *Triton* or *Charonia* and *Cassia*.
- FAO 160.** Rules and regulations governing the construction, establishment, or operation of fishpens and fish cages in Philippine waters.
- FAO 161.** Revised rules and regulations governing the issuance of lease for pearl culture.
- FAO 162.** Revised rules and regulations governing the issuance of permit for the exportation of live mud crabs or *alimango* (*Scylla serrata*).
- FAO 163.** Prohibits the operation of *muro-ami* and *kayakas* in all Philippine waters.
- FAO 164.** Rules governing the operation of *hulbot-hulbot* in Philippine waters.
- FAO 166.** Establishing a closed season of 5 years in Panguil Bay for the operation of filter net or locally known as *sanggab*.
- FAO 168.** License requirements for gathering or culturing shelled mollusks in Philippine waters.
- FAO 170.** Prohibits the operation of *sudsod* (scissor or push net) in Panguil Bay.
- FAO 173.** Bans the exportation of *bangus* fingerlings (*hatirin*).
- FAO 183.** Prohibits the importation of yellowfin tuna and tuna products from certain countries.
- FAO 184.** Guidelines on the experimental collection of precious and semi-precious corals in Philippine waters.

**FAO 185.** Bans the taking or catching, selling, purchasing, possession, or transporting of dolphins.

**FAO 185-1.** Amends FAO 185 by adding whales and porpoises in the ban on the taking or catching, sale, purchase, possession, and transport of dolphins.

**FAO 187.** Revised schedule of fees and charges for services rendered by the Bureau of Fisheries and Aquatic Resources.

**FAO 188.** Prohibits the operation of tuna purse seine nets with mesh size less than 3.5 inches.

**FAO 190.** Regulates *pa-aling* fishing in Philippine waters; prohibiting operation of *pa-aling* in municipal waters.

**FAO 193.** Bans the taking or catching, sale, purchase, possession, and transport of whale sharks and manta rays.

**FAO 195.** Rules and regulations governing importation of fresh/chilled/frozen fish and fishery aquatic products.

**FAO 196.** Guidelines on the creation and implementation of Fisheries and Aquatic Resources Management Councils (FARMCs).

**FAO 197.** Rules and regulations governing the lease of public lands for fishpond development.

**FAO 198.** Rules and regulations on commercial fishing.

**FAO 199.** Guidelines on fish transshipment.

**FAO 200.** Guidelines in implementing Sec. 87 (Poaching in Philippine Waters) of the Philippine Fisheries Code of 1998;

**FAO 201.** Ban on fishing with active gear;

**FAO 202.** Ban on coral exploitation and exportation;

**FAO 203.** Ban on fishing by means of *muro-ami* and the like destructive to coral reefs and other marine habitat;

**FAO 204.** Restricting the use of superlights in fishing;

**FAO 205.** Price list of tilapia fingerlings and breeder and carp fingerlings for sale by the BFAR.

**FAO 206.** Disposal of confiscated fish and other items in fishing through explosives and noxious or poisonous substances;

**FAO 207.** Prohibiting the importation and culture of imported live shrimp and prawn of all stages;

**FAO 208.** Conservation of rare, threatened and endangered fishery species;

**FAO 209.** Guideline on the production, harvesting, handling and transportation of shellfish for implementation of the local government;

**FAO 210.** Rules and regulations on the exporation of fresh, chilled and frozen fish and fishery/aquatic products.

**FAO 211.** Requirements for pre-processing and processing plants and the processing and quality requirements of shellfish.

**FAO 212.** Guideline on the implementation of the Hazard Analysis Critical Control Point (HACCP) System.

**FAO 213.** Establishment and maintenance of BFARs quality control laboratories and collection of fees and charges for examination services.

**Joint DAR-DA-DENR-DILG AO No. 1.** Rules and regulations governing the conversion of public agricultural lands to fishponds and prawn farms pursuant to RA 6657 as amended by RA 7881.

**Joint AO No. 2 (DA-DILG-DENR-DOJ).** Implementing rules and regulations of EO 240 (FARMCs).

**Joint AO No. 3 (DA-DILG).** Implementing guidelines on the granting of preferential treatment to small fisherfolk relative to the 15-km municipal waters. Includes provision for zonification.

**Joint DA-DENR General Memorandum Order No. 3, s1991.** Guidelines on the implementation of Sec. 43, paragraph 3 of PD 705 as amended. Prescribes the guidelines for cancellation and reversion of FLAs into mangrove forestlands under the administration of DENR.

**DA-DAR AO No. 18, s1991.** Guidelines governing the distribution of canceled and expired Fishpond Lease Agreements (FLAs) under EO 407 as amended by EO 448.

**DA-DILG Memorandum of Agreement of April 1994.** Devolves to the LGUs the authority to grant licenses for construction of fish cages, gather aquarium fishes, *kapis* shells, shelled mollusks; issuance of auxiliary invoice to transport fish; establishment of seaweed farms, pearl culture farms and authority to establish closed seasons in municipal waters.

**Joint DA(BFAR)-PCG-DOJ-BUCUS-EMB-PPA-PNP Memorandum of Agreement, s1995.** Mechanism to thresh out administrative and operational concerns/cases among government agencies with similar/ overlapping functions and areas of responsibility. One of the tasks of the PNP-Maritime Command enumerated here is the taking custody of impounded fishing boats including fishing gear and other paraphernalia used in illegal fishing pending the final resolution of the criminal/administrative case thereon.

**Joint DA-DENR Memorandum Order No. 01, Series of 2000.** Identifying/defining the areas of cooperation and collaboraion between the DA and DENR in the implementation of RA 8550, the Philippine Fisheries Code.

**Joint MARINA-PCG-PNP-MARIG Memorandum of Agreement, s1996.** Establishes more effective working relationships among the three agencies to promote maritime safety by delineating the duties and responsibilities of the three agencies.

**Lands AO No. 8-3.** Rules and regulations governing the issuance of temporary permits of occupation and use of non-mineral, non-timber public lands and of lands and other real properties of the Commonwealth of the Philippines; provides definition of shore.

**Lands General Circular No. 37.** Supreme Court Doctrines on Foreshore Lease Applications.

**Lands General Circular No. 58.** Directs District Land Officers to collect occupation fees on foreshore, marshy, reclaimed, and other Government Lands occupied by any person or entity without authority or permit.

**LOI 550.** Assigns the Secretary of Natural Resources to train *barangay* officials as deputy fish wardens and/or deputy forest wardens.

**LOI No. 917.** Declares that mangrove forests essentially needed for foreshore protection, the maintenance of estuarine and marine life, including special forests which are the exclusive habitats of rare and endangered Philippine flora and fauna, are wilderness areas.

**MNR AO 12, s1974.** Regulations for the conservation of marine turtles in the Philippines.

**MNR AO 3.** Land suitable for fishpond development shall not be classified as alienable or disposable but zonified as areas suitable for fishpond development; these areas are under the administration and management jurisdiction of BFAR; processing of FLAs with BFAR.

**MNR AO 42.** Expands forest belt areas in storm surge and typhoon prone areas. Mangrove forest belt areas of 50 m are expanded to 100-m strip inward along shorelines fronting seas, oceans, and other water bodies in specific provinces; 20-m strip for river bank mangroves is expanded to 50 m on both sides in the provinces identified.



# ANNEX C

## *Index of selected subjects*

---

- Aquaculture 2, 5, 123
  - fishpond lease agreements 111, 114-115
    - exemption 113
    - issuance of 64, 111
    - reversion 23, 113
    - statutes 111
- Artificial Reef 70, 121-122
  - establishment 121
  - issues 122
  - management 121-122
- Bantay Dagat* 17, 103
  - citizen's arrest 108
    - procedures 108
  - fish wardens 104
  - legal basis 104-105
- Coastal Resources Management 2, 29, 46
  - assisting organizations 54-55
  - institutional arrangements 55
  - institutions
    - DA-BFAR 8-9, 20-21, 25, 49-52,
    - DENR 8, 25, 49-50
    - DILG 23, 52-53
    - DOST-PCAMRD 54
    - DOTC-PCG 21, 25, 53-54, 105-106
    - MARINA 105-106
    - PNP-MARIG 21, 25, 53, 103-107, 124
  - issues 2, 29, 51, 57
    - development activities 72
    - enforcement 67-68, 75
    - habitat destruction 63-64
    - open access 57-59
    - resource enhancement and conservation 70
  - planning 15
  - processes and features 15
- Development Activities 57, 72
  - EIS System 24-25, 72, 114, 131-133
  - land use 23, 38
    - classification 38
    - foreshore lease 72
  - ports 19, 25
  - tourism 72-73, 123
    - resort 24
    - statutes and orders 72
  - zone-based 23
- Enforcement 17, 21, 25, 67-68, 75
  - apprehension 67, 107
    - burning of apprehended gear 107
    - cease-and-desist order 64
  - deputation 104-105, 122
    - fish wardens 103-104, 122
    - legal basis 104
  - enforcement problems 67
  - jurisdiction 25
    - in municipal waters 17, 69, 103-104
    - in protected areas 67, 117-118
    - outside municipal waters 69
  - marine pollution 53-54, 127, 129-130
  - oil spill 54, 64, 106
  - penalties 89-101, 137-139
    - determination of 137-138
    - imposition of 137
  - prosecution 67, 138
  - protected areas 122, 124
  - toxic wastes 126-127
- FARMCs 16, 21, 87-88, 121, 134-135
  - establishment 9, 134-135
  - legal basis 19, 101, 135
- Fisheries 75
  - commercial fishing 5, 83, 85, 101, 122
  - dynamite fishing 58, 67, 90, 137
    - examination of dynamited fish 106-107
    - fishing boat used in 107
  - fishing gear 20, 86
    - active 20, 58, 93, 102-103
    - banning 8, 17, 102
    - compressor diving 89
    - impoundment 107
    - mesh size limit 92
    - regulation 103
  - fish sanctuaries 97, 121
  - illegal fishing
    - definition 89
    - filing cases of 108
    - prescribed penalties 89-101
    - types
      - electrofishing 35, 91
      - use of dynamite 35, 90
      - use of poisonous substances 35, 90-91

- licensing 19-20, 136
  - determination of amount 21, 136
  - promulgation by *Sangguniang Bayan* 86
- marine mammals 124
- marine reserves 71
- marine turtles 99, 125
- municipal fishing area
  - banning of municipal fishers in contiguous waters 85-86
- municipal waters 17
  - commercial fishing in 83, 85
  - delineation of 48, 82-84
  - granting of concessions in 87-88
- post-harvest activities 28
- prohibitions on the gathering, selling, or taking of
  - corals 27, 87, 97
  - dolphins 27
  - mollusks 26-27
  - marine turtles 26, 99
  - sabalo* 94-95
  - whale sharks and manta rays 27, 115
- resettlement areas 135
- Fishponds 75
  - agrarian reform 113
  - collateralized 116
  - conversion from mangroves 115
  - ECC 64, 113-114
  - illegal 112
    - jurisdiction 112
    - legalization procedures 112-113
  - lease agreement 111
    - subleasing 115
  - public lands, in 115
  - reversion of abandoned, unutilized, or undeveloped 23, 113
  - zoning and selling 116
- Foreshore Area 24, 72, 75-81
  - definition 76-77
  - easement rights 25, 80-81
  - jurisdiction 24, 79
  - lease
    - application requirements 78
    - lease holder rights and responsibilities 78-79
    - maximum area 78
    - preference 78
    - process 77
    - term 78
  - reclamation 24, 72, 81
- Habitats
  - direct, destruction of 63, 65-66
    - coral reefs 63-64
    - mangroves 63-64
  - indirect, destruction of 63, 65, 67
    - pollution 64-65
    - siltation 64
  - fish sanctuary, establishment of 18, 121
  - protected areas 21-22, 71-75
    - definition 116-117
    - jurisdiction 71, 117-118, 123
    - law enforcement 124
    - legal basis 22, 70
    - list of 118-119
    - regulation 124
    - resolution of conflicts 123
    - violations and penalties 120
- Land Use 38
  - agricultural 72
  - cadastral survey 72
  - ECC 73
  - jurisdiction 72
  - reclassification 72
- Laws 5-9
  - classification of 11
    - Administrative Orders 13
    - Executive Orders 12
    - ordinances 13, 17, 85, 135-138
      - validity of 13
    - Presidential Decrees 12
    - Republic Acts 12
    - statutes 12
    - treaties 12, 25-27
- Local Governance 29
  - basic services 29, 44, 46, 54
  - cooperatives 20, 51, 58
  - facilities 44-45, 72
  - research 30, 33
  - consultation 16, 20-21, 24
  - cooperative undertakings 16, 58
  - credit-financing schemes 38, 45
  - data gathering 135
  - fisheries and aquaculture 2
    - licenses 19-20, 60, 87-88, 136
    - permits 60, 87
    - marginalized fisherfolk 58, 88
  - forestry 30-31, 34
    - mangroves 109-110
    - community-based forestry projects 30-31
  - grants and donations 37, 44
  - infrastructure 32
  - internal revenue allotment 38
  - hygiene and sanitation 31
  - joint ventures 55
  - legal basis 13, 15
  - loans 45
  - mining/quarrying 34, 133

- preferential rights 20, 58
  - special features
    - decentralization 13-15, 29
    - mobilization 13
    - political autonomy 13-14, 16, 29, 37
    - resource generation 13, 37
  - taxes and fees 16, 35-36, 38, 136
  - tourism 32-33
- Mangroves 24, 63, 75
  - buffer zone 8
  - CBFMA 59, 110
  - communal forest 109-110
  - conservation and management 44, 109
  - conversion into fishponds 5, 64, 99
  - cutting 24, 64, 110
  - dike construction 111
  - FLA reversion 113
    - into A & D lands 74
  - flooding of ponds 110
  - girdling 111
  - jurisdiction 24, 64, 109-110
  - prohibitions 111
  - stewardship 109-110
- Mining 18, 64, 133-134
  - granting of permits 75
  - oil pipeline 127
  - quarrying 75, 133
  - siltation 130-131
  - small scale 34, 59, 134
- Open Access 57-59
  - permits 58
  - preferential rights 20, 59
  - problem network 58
  - property rights 50, 63
  - restrictions 19, 58, 62
  - taxation 61
  - zonation 59
- Pollution 24, 64, 75, 125-133, 138-139
  - industrial effluents 128
  - jurisdiction 129-131
  - law enforcement 36-37, 126-128
  - marine 53-54, 106, 127, 129-130
  - oil spill 64, 106, 139
  - sewage 66
  - siltation 64-65, 130-131
  - solid wastes 126
  - toxic wastes 126-127, 138-139
  - violations and penalties 138-139

# ANNEX D

## *List of prohibited/regulated aquatic species in the Philippines*

### I. The Philippine aquatic species listed in FAO 208

#### A. Rare species

	Scientific name	English name
1. Gastropods		
	<i>Bolma girgylus</i>	Girgylus star shell
	<i>Clypeomorus aduncus</i>	Bent cerith
	<i>Recluzia lutea</i>	Recluzia snail
	<i>Separatista blainvilliana</i>	True separatista
	<i>Malluvium lissus</i>	Deep sea cap
	<i>Strombus thersites</i>	Thersite stromb
	<i>Varicospira crispate</i>	Network beak shell
	<i>Tibia martini</i>	Martini's tibia
	<i>C. childreni</i>	Children's cowrie
	<i>C. beckii</i>	Beck's cowrie
	<i>C. guttata</i>	Great spotted cowrie
	<i>C. porteri</i>	Porter's cowrie
	<i>C. teramachii</i>	Teramachi's cowrie
	<i>C. martini</i>	Martini's cowrie
	<i>C. saulae</i>	Saul's cowrie
	<i>C. katsuae</i>	Katsue's cowrie
	<i>C. leucodon</i>	White toothed cowrie
	<i>C. aurantium</i>	Golden cowrie
	<i>C. valentia</i>	Prince cowrie
	<i>Phenacovolva dancei</i>	Dance volva
	<i>Cypraeacassis rufa</i>	Bullmouth helmet
	<i>Phalium coronadoi wyvillei</i>	Wyville's bonnet
	<i>P. glabratum glabratum</i>	Smooth bonnet
	<i>Morum kurzi</i>	Kurzi's morum
	<i>M. grande</i>	Giant morum
	<i>M. watsoni</i>	Watson's morum
2. Bivalves		
	<i>Amusium oblitteratum</i>	Smudged moon scallop
	<i>Eufistulana mumia</i>	Club-shaped boring clam

**B. Threatened species**

	Scientific name	English name	Local name
1. Gastropods	<i>Turbo marmoratus</i>	Green snail	<i>Laong, bulatok</i>
	<i>Trochus niloticus</i>	Smooth top shell	<i>Samong, simong; tuwad</i>
	<i>Barnea manilensis</i>	Angel wing shell	<i>Diwal</i>
2. Crabs	<i>Birgus latro</i>	Coconut crab	<i>Tatus, umang; alimangong lupa</i>

**C. Endangered species\***

	Scientific name	English name	Local name
1. Whales and dolphins	<i>Balaenoptera edeni</i>	Bryde's whale	<i>Balyena, bongkaras</i>
	<i>B. physalus</i>	Fin whale	<i>Balyena</i>
	<i>Megaptera novaeangliae</i>	Humpback whale	<i>Balyena</i>
	<i>Physeter macrocephalus</i>	Sperm whale	<i>Balyena</i>
	<i>Kogia breviceps</i>	Pygmy sperm whale	<i>Balyena</i>
	<i>K. simus</i>	Dwarf sperm whale	<i>Balyena</i>
	<i>Mesoplodon densirostris</i>	Blainville's beaked whale	<i>Balyena</i>
	<i>Ziphius cavirostris</i>	Cuvier's beaked whale	<i>Balyena</i>
	<i>Peponocephala electra</i>	Melon-headed whale	<i>Lumod</i>
	<i>Feresa attenuata</i>	Pygmy killer whale	<i>Lumod</i>
	<i>Globicephala macrorhynchus</i>	Short finned pilot whale	<i>Pakatang-ambuhan</i>
	<i>Steno bredanensis</i>	Rough-toothed dolphin	<i>Lumba-lumba</i>
	<i>Tursiops truncatus</i>	Long-snouted bottlenose dolphin	<i>Lumba-lumba; lumod</i>
	<i>Stenella longirostris</i>	Long-beaked dolphin	<i>Lumba-lumba</i>
	<i>S. attenuata</i>	Narrow-snouted dolphin	<i>Lumba-lumba</i>
	<i>S. caeruleoalba</i>	Striped dolphin	<i>Lumba-lumba</i>
	<i>Lagenodelphis hosei</i>	Fraser's dolphin	<i>Mayahon</i>
	<i>Grampus griseus</i>	Risso's dolphin	<i>Lumba-lumba; kabang</i>
	<i>Orcinus orca</i>	Killer whale	<i>Balyena</i>
	<i>Pseudorca crassidens</i>	False killer whale	<i>Balyena</i>
2. Clams	<i>Tridacna gigas</i>	True giant clam	<i>Taklobo</i>
	<i>T. derasa</i>	Smooth giant clam	<i>Taklobo</i>
	<i>T. squamosa</i>	Fluted/scaly giant clam	<i>Hagdan-hagdan</i>
	<i>T. maxima</i>	Elongated giant clam	<i>Manlet; manlot</i>
	<i>T. crocea</i>	Boring/crocus clam	<i>Let-let</i>
	<i>Hippopus hippopus</i>	Strawberry/horse hoof clam	<i>Kukong kabayo</i>
	<i>H. porcellanus</i>	China/porcelain clam	<i>Kukong kabayo</i>
3. Sea snakes	<i>Cerberus rhyncopus</i>	Dogface water snake	<i>Kalabukab</i>

\*Species, subspecies, including the eggs, offspring, parts and derivatives of plants and animals listed in the CITES Appendices

## II. Philippine aquatic species regulated by other issuances than FAO 208 (2001)

Species	Issuance	Regulation
<i>Dalag</i> (snakehead murrel), <i>kanduli</i> (catfish), and <i>banak</i> (mullet)	FAO 3	Regulates the conservation of the species
Marine mollusks	FAO 11** FAO 168**	Regulates gathering of the species License requirements for gathering, culturing, and exporting shelled mollusks
<i>Chanos chanos</i>	FAO 129	Bans the capture, sale, possession, and transport of <i>sabalo</i>
	FAO 173	Bans exportation of <i>hatirin</i>
Seaweeds	FAO 146**	Regulates farming
Tropical aquarium fishes	FAO 148**	Regulates gathering, catching, taking, or removing
<i>Placuna placenta</i>	FAO 157**	Regulates gathering, taking, removing and collecting of <i>kapis</i>
<i>Triton</i> spp., <i>Charonia</i> spp., <i>Cassia</i> spp.	FAO 158	Prohibits gathering, selling, transporting, or possessing of the species
<i>Scylla serrata</i>	FAO 162	Regulates permit for exportation
Whale sharks and manta rays	FAO 193	Bans the taking or catching, sale, purchase, possession, and transport
Coral species	FAO 202	Bans gathering, sale, possession, and export
<i>Dugong dugon</i>	DAO 55, s1991	Declares as protected marine mammal

\*\*Devolved to local governments as per DA-DILG Joint MOA (1994)

## III. The Philippine aquatic species listed in the CITES Appendices

	Scientific name	English name
1. Reptiles	<i>Cerberus rhynchops</i> <i>Natrix piscator</i> <i>Atretium schistosum</i>	Dog-faced water snake Checked keelback water snake Olive keelback water snake
2. Fishes (introduced)	<i>Scleropages formosus</i> <i>Arapaima gigas</i> <i>Pangasianodon gigas</i>	Asian arowana Arowana Giant catfish
3. Coelenterates	<i>Acropora</i> spp. <i>Heliopora</i> spp. <i>Halomitra</i> spp. <i>Platygyra</i> spp. <i>Favia</i> spp. <i>Lobophyllia</i> spp. <i>Euphyllia</i> spp. <i>Pocillopora</i> spp. <i>Pavona</i> spp. <i>Stylophora</i> spp. <i>Polyphallia</i> spp. <i>Pectinina</i> spp. <i>Millepora</i> spp. <i>Tubipora</i> spp. <i>Seriotopora</i> spp. <i>Stylaster</i> spp. <i>Oulastrea</i> spp. <i>Leptoseris</i> spp. <i>Pachyseris</i> spp. <i>Psammocore</i> spp. <i>Cycloseris</i> spp. <i>Fungia</i> spp. <i>Herpolitha</i> spp. <i>Parahalomitra</i> spp. And other species under Class Anthozoa and Hydrozoa	Black corals Blue corals Bowl corals Brain corals Brain corals Brain root corals Brain trumpet corals Brown stem cluster corals Cactus corals Cauliflower corals Feather corals Lettuce corals Yellowfire corals Organpipe corals Bird nest corals

## *References*

- Castillan, J. 1977. Enforcement of Philippine pollution control laws. *Philippine Environment in the Seventies* 41.
- DENR, DILG, DA-BFAR and CRMP (Department of Environment and Natural Resources, Department of the Interior and Local Government, Department of Agriculture-Bureau of Fisheries and Aquatic Resources and Coastal Resources Management Project). 1997. Legal and jurisdictional guidebook for coastal resource management in the Philippines. Coastal Resource Management Project, Cebu City, Philippines.
- ESCAP (Economic and Social Commission for Asia and the Pacific). 1977. Enforcement of Philippine pollution control laws. *Philippine Environment in the Seventies* 41.
- PCSD (Philippine Council for Sustainable Development). 1997. *Philippine Agenda 21: A National Agenda for Sustainable Development*. Philippine Council for Sustainable Development. Manila, Philippines.
- Sorensen, J. 1997. National and international efforts at integrated coastal management: Definitions, achievements, and lessons. *Coastal Management* 25: 3-41.
- Tolentino, Jr., A.S. 1992. Introduction to Philippine environmental law, p. 1-29. *In* M.S. Feliciano, A.S. Tolentino, Jr., E. Labitag, W.E. Gloria and A.A. Oposa, Jr. (eds.) *Environmental law in the Philippines*. Institute of International Legal Studies, University of the Philippines Law Center.







*By definition, coastal management is a continuous and dynamic process that must evolve concurrently with local, national, and global trends in a variety of factors including governance, climate change, environment, socio-economy, technology, and resource use. Similarly, the policy and legislative agenda for coastal management in the Philippines has evolved in response to changing conditions and issues in coastal areas.*

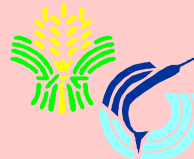
**This guidebook was produced by:**



**Department of  
Environment and  
Natural Resources**



**Department of the  
Interior and Local  
Government**



**Department of  
Agriculture - Bureau of  
Fisheries and Aquatic  
Resources**

**Local Government Units, Nongovernment Organizations, and other Assisting Organizations**



**through the Coastal Resource Management Project,  
a technical assistance project supported by the  
United States Agency for International Development.**



**Technical support and management is provided by:**



**Tetra Tech EM Inc.**

**The Coastal Resource Management Project**, 5/F Cebu International Finance Corporation Towers  
J. Luna Ave. cor. J.L. Briones St., North Reclamation Area 6000 Cebu City, Philippines  
Tels.: (63-32) 232-1821 to 22, 412-0487 to 89 Fax: (63-32) 232-1825 Hotline: 1-800-1888-1823  
E-mail: crmp@oneocean.org or crmhot@mozcom.com Website: www.oneocean.org